

## House Bill 310

By: Representatives Powell of the 32<sup>nd</sup>, Coomer of the 14<sup>th</sup>, Nimmer of the 178<sup>th</sup>, Rogers of the 10<sup>th</sup>, Dickey of the 140<sup>th</sup>, and others

## A BILL TO BE ENTITLED

## AN ACT

1 To amend Title 42 of the Official Code of Georgia Annotated, relating to penal institutions,  
 2 so as to create the Board of Community Supervision, the Department of Community  
 3 Supervision, and the Governor's Office of Transition, Support, and Reentry; to provide for  
 4 the responsibilities of DCS with respect to supervision of adult and certain juvenile  
 5 probationers and adult parolees; to enact reforms recommended by the Georgia Council on  
 6 Criminal Justice Reform; to reassign responsibilities of the Advisory Council for Probation  
 7 and the County and Municipal Probation Advisory Council to the Board of Community  
 8 Supervision and repeal provisions relating to such councils; to transfer responsibility of  
 9 certain functions of probation and parole supervision to DCS and make corresponding  
 10 changes with respect to the jurisdiction and authority of the Department of Corrections,  
 11 Department of Juvenile Justice, and the State Board of Pardons and Paroles; to provide for  
 12 the selection, service, and powers and duties of the commissioner and employees of DCS;  
 13 to provide for rules and regulations and forms; to provide for administration; to provide for  
 14 transfer of prior appropriations; to provide for transfer of personnel, equipment, and  
 15 facilities; to provide for defined terms; to provide for the revocation, modification, and  
 16 tolling of sentences under certain circumstances; to provide for the conditions of probation;  
 17 to provide for the assessment and collection of costs of probation; to revise certain standards  
 18 for private corporations, private enterprises, and private agencies that enter into written  
 19 contracts for probation services; to change provisions relating to confidentiality of records;  
 20 to revise certain standards for counties, municipalities, or consolidated governments who  
 21 enter into written agreements to provide probation services; to provide for management of  
 22 probated sentences when a defendant wants to enter an accountability court as a condition  
 23 of a probation revocation; to change provisions relating to informing a defendant regarding  
 24 the first offender laws; to provide for retroactive first offender treatment under certain  
 25 circumstances; to provide for the filing of a petition for retroactive first offender treatment;  
 26 to amend Titles 15, 16, 17, 19, 20, 21, 34, 35, 37, 40, 42, 43, 45, 48, and 49 of the Official  
 27 Code of Georgia Annotated, relating to courts, crimes and offenses, criminal procedure,  
 28 domestic relations, education, elections, labor and industrial relations, law enforcement

29 officers and agencies, mental health, motor vehicles and traffic, penal institutions,  
 30 professions and businesses, public officers and employees, revenue and taxation, and social  
 31 services, respectively, so as to so as to conform provisions to the new Chapter 3 of Title 42;  
 32 to provide for certain changes in the administrative organization of the Department of  
 33 Corrections, Department of Juvenile Justice, and the State Board of Pardons and Paroles and  
 34 provide for conforming amendments; to correct cross-references and remove obsolete or  
 35 improper references; to provide for legislative findings and intent; to provide for related  
 36 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for  
 37 other purposes.

38 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

39 **PART I**  
 40 **BOARD OF COMMUNITY SUPERVISION,**  
 41 **DEPARTMENT OF COMMUNITY SUPERVISION, AND**  
 42 **GOVERNOR'S OFFICE OF TRANSITION, SUPPORT, AND REENTRY**  
 43 **SECTION 1-1.**

44 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
 45 by revising Chapter 3, which was previously reserved, as follows:

46 "CHAPTER 3  
 47 ARTICLE 1

48 42-3-1.

49 ~~Reserved.~~

50 As used in this chapter, the term:

- 51 (1) 'Board' means the Board of Community Supervision.
- 52 (2) 'Commissioner' means the commissioner of community supervision.
- 53 (3) 'Community supervision officer' means an individual employed by DCS who  
 54 supervises probationers or parolees.
- 55 (4) 'DCS' means the Department of Community Supervision.
- 56 (5) 'Split sentence' means any felony sentence that includes a term of imprisonment  
 57 followed by a term of probation.

58 42-3-2.

59 (a) There is created the Board of Community Supervision which shall establish the general  
 60 policy to be followed by the Department of Community Supervision and the Governor's  
 61 Office of Transition, Support, and Reentry. The powers, functions, and duties of the Board  
 62 of Corrections as they exist on June 30, 2015, with regard to the probation division of the  
 63 Department of Corrections and supervision of probationers unless otherwise provided in  
 64 this chapter are transferred to the Board of Community Supervision effective July 1, 2015.  
 65 The powers, functions, and duties of the State Board of Pardons and Paroles as they exist  
 66 on June 30, 2015, with regard to the supervision of parolees, unless otherwise provided in  
 67 this chapter are transferred to the Board of Community Supervision effective July 1, 2015.  
 68 The powers, functions, and duties of the Board of Juvenile Justice and the Department of  
 69 Juvenile Justice as they exist on June 30, 2016, with regard to the probation supervision of  
 70 youthful offenders for committing a Class A designated felony act or Class B designated  
 71 felony act, as such terms are defined in Code Section 15-11-2, are transferred to the Board  
 72 of Community Supervision effective July 1, 2016. The powers, functions, and duties of the  
 73 County and Municipal Probation Advisory Council as they exist on June 30, 2015, are  
 74 transferred to the Board of Community Supervision effective July 1, 2015.

75 (b) The board shall consist of 11 members. The commissioner of corrections,  
 76 commissioner of juvenile justice, chairperson and vice chairperson of the State Board of  
 77 Pardons and Paroles, director of the Division of Family and Children Services of the  
 78 Department of Human Services, and commissioner of behavioral health and developmental  
 79 disabilities shall be members of the board and shall serve on the board so long as they  
 80 remain in their appointed positions. The Governor shall appoint:

81 (1) A sheriff who shall serve an initial term ending June 30, 2019, each subsequent term  
 82 being four years;

83 (2) A superior court judge who shall serve an initial term ending June 30, 2019, each  
 84 subsequent term being four years;

85 (3) A juvenile court judge who shall serve an initial term ending June 30, 2018, each  
 86 subsequent term being four years;

87 (4) A mayor or city manager who shall serve an initial term ending June 30, 2017, each  
 88 subsequent term being four years; and

89 (5) A county commissioner or county manager who shall serve an initial term ending  
 90 June 30, 2019, each subsequent term being four years.

91 (c) Vacancies in office shall be filled by appointment by the Governor in the same manner  
 92 as the appointment to the position on the board which becomes vacant. An appointment  
 93 to fill a vacancy, other than by expiration of a term of office, shall be for the balance of the  
 94 unexpired term.

- 95 (d) Members of the board may be removed from office under the same conditions for  
96 removal from office of members of professional licensing boards provided in Code Section  
97 43-1-17.
- 98 (e) There shall be a chairperson of the board, elected by and from the membership of the  
99 board, who shall be the presiding officer of the board.
- 100 (f) The members of the board shall receive per diem and expenses as shall be set and  
101 approved by the Office of Planning and Budget and in conformance with rates and  
102 allowances set for members of other state boards.
- 103 (g)(1) As used in this subsection, the term:
- 104 (A) 'Evidence based practices' means supervision policies, procedures, programs, and  
105 practices that scientific research demonstrates reduce recidivism among individuals  
106 who are under some form of correctional supervision.
- 107 (B) 'Recidivism' means returning to prison or jail within three years of being placed on  
108 probation or being discharged or released from a Department of Corrections or jail  
109 facility.
- 110 (2) The board shall adopt rules and regulations governing the management and treatment  
111 of probationers and parolees to ensure that evidence based practices, including the use of  
112 a risk and needs assessment and any other method the board deems appropriate, guide  
113 decisions related to managing probationers and parolees in the community. The board  
114 shall require DCS to collect and analyze data and performance outcomes relevant to the  
115 level and type of treatment given to a probationer or parolee and the outcome of the  
116 treatment on his or her recidivism and prepare an annual report regarding such  
117 information which shall be submitted to the Governor, the Lieutenant Governor, the  
118 Speaker of the House of Representatives, and the chairpersons of the House Committee  
119 on State Properties and the Senate State Institutions and Property Committee.
- 120 (h) The board shall adopt rules and regulations and such rules and regulations shall be  
121 adopted, established, promulgated, amended, repealed, filed, and published in accordance  
122 with the applicable provisions and procedure as set forth in Chapter 13 of Title 50, the  
123 'Georgia Administrative Procedure Act.' The courts shall take judicial notice of any such  
124 rules or regulations.
- 125 (i) As used in this Code section, the term 'rules and regulations' shall have the same  
126 meaning as the word 'rule' as defined in paragraph (6) of Code Section 50-13-2.
- 127 (j) The board shall perform duties required of it by law and shall, in addition thereto, be  
128 responsible for promulgation of all rules and regulations not in conflict with this chapter  
129 that may be necessary and appropriate to the administration of DCS and the Governor's  
130 Office of Transition, Support, and Reentry, to the accomplishment of the purposes of this  
131 chapter and Chapters 8 and 9 of this title, and to the performance of the duties and

132 functions of DCS and the Governor's Office of Transition, Support, and Reentry as set forth  
133 in this chapter and Chapters 8 and 9 of this title.

134 42-3-3.

135 There is created the Department of Community Supervision. DCS shall be the agency  
136 primarily responsible for:

137 (1) Supervision of all defendants who receive a felony sentence of straight probation;

138 (2) Supervision of all defendants who receive a split sentence;

139 (3) Supervision of all defendants placed on parole or other conditional release from  
140 imprisonment by the State Board of Pardons and Paroles;

141 (4) Supervision of juvenile offenders when such offender was adjudicated to have  
142 committed a Class A designated felony act or Class B designated felony act, as such  
143 terms are defined in Code Section 15-11-2, and is released from confinement;

144 (5) Administration of laws, rules, and regulations relating to probation and parole  
145 supervision, as provided for by law;

146 (6) Enforcement of laws, rules, and regulations relating to probation and parole  
147 supervision, as provided for by law; and

148 (7) Administration of laws as provided in this chapter.

149 42-3-4.

150 (a) There shall be a commissioner of community supervision who shall be both appointed  
151 by and serve at the pleasure of the Governor. Subject to the policies, rules, and regulations  
152 established by the board, the commissioner shall supervise, direct, account for, organize,  
153 plan, administer, and execute the functions of DCS.

154 (b) The commissioner shall receive an annual salary to be set by the Governor which shall  
155 be his or her total compensation for services as commissioner. The commissioner shall be  
156 reimbursed for all actual and necessary expenses incurred by him or her in carrying out his  
157 or her official duties.

158 (c) The position of commissioner shall be a separate and distinct position from any other  
159 position in state government. The duties of the commissioner shall be performed by the  
160 commissioner and not by any other officer of state government, and the commissioner shall  
161 not perform the duties of any other officer of state government.

162 42-3-5.

163 (a) The commissioner, with the approval of the board, may establish units within DCS as  
164 he or she deems proper for its administration and shall designate persons to be assistant

165 commissioners of each unit and to exercise authority as he or she may delegate to them in  
166 writing. The commissioner shall establish a victim services unit within DCS to coordinate:

167 (1) Payment of court ordered restitution; and

168 (2) Victim services, including, but not limited to, victim notifications, payments  
169 available to victims as provided by law, and assisting victims with support services.

170 (b) The commissioner shall have the authority to employ as many individuals as he or she  
171 deems necessary for the administration of DCS and for the discharge of the duties of his  
172 or her office. The commissioner shall issue all necessary directions, instructions, orders,  
173 and rules applicable to employees of DCS. The commissioner shall have authority, as the  
174 commissioner deems proper, to employ, assign, compensate, and discharge employees of  
175 DCS within the limitations of DCS's appropriation and the restrictions set forth by law.

176 (c) No employee of DCS shall be compensated for services to DCS on a commission or  
177 contingent fee basis.

178 (d) Neither the commissioner nor any community supervision officer or employee of DCS  
179 shall be given or receive any fee, compensation, loan, gift, or other thing of value in  
180 addition to the compensation and expense allowance provided by law for any service or  
181 pretended service either rendered or to be rendered as commissioner or as a community  
182 supervision officer or employee of DCS.

183 42-3-6.

184 (a) The commissioner, with the approval of the board, shall have the power to make and  
185 publish reasonable rules and regulations not inconsistent with this title or other laws or with  
186 the Constitution of this state or of the United States for the administration of this chapter  
187 or any law which it is his or her duty to administer.

188 (b) The commissioner may prescribe forms as he or she deems necessary for the  
189 administration and enforcement of this chapter and Chapters 8 and 9 of this title or any law  
190 which it is his or her duty to administer.

191 (c) The commissioner may confer all powers of a police officer of this state, including, but  
192 not limited to, the power to make summary arrests for violations of any of the criminal laws  
193 of this state and the power to carry weapons, upon persons in the commissioner's  
194 employment as the commissioner deems necessary, provided that individuals so designated  
195 meet the requirements specified in all applicable laws.

196 (d) The commissioner or his or her designee may authorize certain persons in the  
197 commissioner's employment to assist law enforcement officers or correctional officers of  
198 local governments in preserving order and peace when so requested by such local  
199 authorities.

200 (e) The following rules and regulations shall remain in full force and effect as rules and  
 201 regulations of DCS until amended, repealed, or superseded by rules or regulations adopted  
 202 by the board:

203 (1) All rules and regulations previously adopted by the Advisory Council for Probation  
 204 which relate to functions transferred under this chapter from the state-wide probation  
 205 system to DCS;

206 (2) All rules and regulations previously adopted by the Department of Corrections or the  
 207 Board of Corrections which relate to functions transferred under this chapter from the  
 208 Department of Corrections to DCS;

209 (3) All rules and regulations previously adopted by the State Board of Pardons and  
 210 Paroles which relate to functions transferred under this chapter from the State Board of  
 211 Pardons and Paroles to DCS;

212 (4) All rules and regulations previously adopted by the Department of Juvenile Justice  
 213 or the Board of Juvenile Justice which relate to functions transferred under this chapter  
 214 from the Department of Juvenile Justice to DCS; and

215 (5) All rules and regulations previously adopted by the County and Municipal Probation  
 216 Advisory Council which relate to functions transferred under this chapter from the  
 217 County and Municipal Probation Advisory Council to DCS.

218 42-3-7.

219 (a) Appropriations to the Department of Corrections, the Department of Juvenile Justice,  
 220 the County and Municipal Probation Advisory Council, and the State Board of Pardons and  
 221 Paroles for functions transferred to DCS pursuant to this chapter shall be transferred to  
 222 DCS as provided for in Code Section 45-12-90. Personnel, equipment, and facilities  
 223 previously employed by the Department of Corrections, the Department of Juvenile Justice,  
 224 the County and Municipal Probation Advisory Council, and the State Board of Pardons and  
 225 Paroles for functions transferred to DCS pursuant to this chapter shall likewise be  
 226 transferred to DCS. Any disagreement as to any of such transfers shall be resolved by the  
 227 Governor. Any individual who is employed by the Department of Corrections as a  
 228 probation officer or probation supervisor or by the Board of Pardons and Paroles as a  
 229 parole officer on or before July 1, 2016, and who is required by the terms of his or her  
 230 employment to comply with the requirements of Chapter 8 of Title 35, the 'Georgia Peace  
 231 Officer Standards and Training Act,' may remain in the employment of the employing  
 232 agency but shall be transferred for administrative purposes only to DCS on July 1, 2015.

233 (b) The enactment of this chapter and the Act by which it is enacted shall not affect or  
 234 abate the status of probation, parole, a probation revocation, or a parole revocation which  
 235 occurred prior to July 1, 2015.

236 42-3-8.

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

238 (1) 'Employee' means a full-time or part-time employee of DCS or an employee serving  
239 under contract with DCS.

240 (2) 'Employee benefit fund' means an account containing the facility's profits generated  
241 from vending services maintained by a local facility.

242 (3) 'Executive director of the facility' means the chief community supervision officer or  
243 such other head of a facility.

244 (4) 'Facility' means a community supervision office or such other similar property under  
245 the jurisdiction or operation of DCS.

246 (5) 'Vending services' means one or more vending machines in a location easily  
247 accessible by employees, which services may also be accessible by members of the  
248 general public, but which vending machines do not require a manager or attendant for the  
249 purpose of purchasing food or drink items. Vending services shall be for the provision  
250 of snack or food items or nonalcoholic beverages and shall not include any tobacco  
251 products or alcoholic beverages.

252 (b) It is the intent of the General Assembly to provide an employee benefit as set forth in  
253 this Code section, which benefit shall be of de minimis cost to the state and which shall in  
254 turn benefit the state through the retention of dedicated and experienced employees.

255 (c) Any other provision of the law notwithstanding, a facility is authorized to purchase  
256 vending machines or enter into vending service agreements by contract, sublease, or license  
257 for the purpose of providing vending services to each facility under the jurisdiction of the  
258 Department of Corrections. Vending services shall be provided in any facility where the  
259 operation of such vending services is capable of generating a profit for that facility. The  
260 facility's profits generated from the vending services shall be maintained by the local  
261 facility under the authority of the executive director of the facility in an interest-bearing  
262 account, and the account shall be designated the employee benefit fund.

263 (d) The employee benefit fund shall be administered by a committee of five  
264 representatives of the facility to be selected by the chief community supervision officer for  
265 such facility. Funds from the account may be spent as determined by a majority vote of the  
266 committee. Funds may be expended on an individual employee of the facility for the  
267 purpose of recognizing a death, birth, marriage, or prolonged illness or to provide  
268 assistance in the event of a natural disaster or devastation adversely affecting an employee  
269 or an employee's immediate family member. Funds may also be expended on an item or  
270 activity which shall benefit all employees of the facility equally for the purposes of  
271 developing camaraderie or otherwise fostering loyalty to DCS or bringing together the  
272 employees of the facility for a meeting, training session, or similar gathering. Funds spent

273 for an individual employee shall not exceed \$250.00 per person per event, and funds  
 274 expended for employee gatherings or items shall not exceed \$1,000.00 per event or single  
 275 item; provided, however, that events conducted for the benefit of employees of an entire  
 276 institution shall not exceed \$4,500.00 per event.

277 (e) The employee benefit fund account of each facility shall be reviewed and audited by  
 278 the administrative office of the local facility and by DCS in accordance with standards and  
 279 procedures established by DCS. No account shall maintain funds in excess of \$5,000.00.  
 280 Any funds collected which cause the fund balance to exceed \$5,000.00 shall be remitted  
 281 to DCS's general operating budget.

282 (f) Nothing in this Code section shall prohibit a facility from purchasing vending machines  
 283 or providing or maintaining vending services which do not generate a profit, provided that  
 284 such services are of no cost to DCS, nor shall this Code section be construed so as to  
 285 prohibit a private provider of vending services from making or retaining a profit pursuant  
 286 to any agreement for such services.

287 42-3-9.

288 (a) An employee leaving the service of DCS under honorable conditions who has  
 289 accumulated 20 or more years of service with DCS as a community supervision officer, or  
 290 20 or more years of combined service as a parole officer with the State Board of Pardons  
 291 and Paroles, a probation officer or supervisor with the Department of Corrections, and  
 292 community supervision officer, shall be entitled as part of such employee's compensation  
 293 to retain his or her DCS issued weapon and badge.

294 (b) As used in this subsection, the term 'disability' means a disability that prevents an  
 295 individual from working as a community supervision officer. When a community  
 296 supervision officer leaves DCS as a result of a disability arising in the line of duty, such  
 297 officer shall be entitled as part of such officer's compensation to retain his or her weapon  
 298 and badge in accordance with regulations promulgated by the commissioner.

299 (c) A community supervision officer who is killed in the line of duty shall be entitled to  
 300 have his or her DCS issued badge given to a surviving family member.

301 (d) The board is authorized to promulgate rules and regulations for the implementation of  
 302 this Code section.

303

## ARTICLE 2

304 42-3-30.

305 The General Assembly finds that there is a need for a coordinated strategy for transition,  
 306 support, and reentry of offenders in this state. The General Assembly, therefore, declares

307 it to be the public policy of this state to provide the necessary leadership to coordinate  
308 successful offender reentry in this state, reduce recidivism, enhance public safety through  
309 collaboration among stakeholders, and assist in ensuring the appropriate and responsible  
310 use of cost savings realized by justice reforms through reinvestment in evidence based,  
311 community centered services.

312 42-3-31.

313 There is created the Governor's Office of Transition, Support, and Reentry, which is  
314 assigned to DCS for administrative purposes only, as prescribed in Code Section 50-4-3.

315 42-3-32.

316 The board is authorized to do all things and take any action necessary to accomplish the  
317 legislative intent of the creation of the Governor's Office of Transition, Support, and  
318 Reentry, including, but not limited to, the promulgation of rules and regulations relative  
319 thereto. The board is authorized to solicit and accept gifts, grants, donations, property, both  
320 real and personal, and services for the purpose of carrying out this article.

321 42-3-33.

322 (a) The powers, functions, and duties of the Board of Corrections as they exist on June 30,  
323 2015, with regard to reentry services for the Department of Corrections are transferred to  
324 the Governor's Office of Transition, Support, and Reentry effective July 1, 2015. The  
325 powers, functions, and duties of the State Board of Pardons and Paroles as they exist on  
326 June 30, 2015, with regard to reentry services are transferred to the Governor's Office of  
327 Transition, Support, and Reentry effective July 1, 2015. The powers, functions, and duties  
328 of the Board of Juvenile Justice and the Department of Juvenile Justice as they exist on  
329 June 30, 2016, with regard to reentry services for youthful offenders who committed a  
330 Class A designated felony act or Class B designated felony act, as such terms are defined  
331 in Code Section 15-11-2, are transferred to the Governor's Office of Transition, Support,  
332 and Reentry effective July 1, 2016.

333 (b) Appropriations to the Department of Corrections, the State Board of Pardons and  
334 Paroles, and the Department of Juvenile Justice for functions transferred to DCS pursuant  
335 to this article shall be transferred to the Governor's Office of Transition, Support, and  
336 Reentry as provided for in Code Section 45-12-90. Personnel, equipment, and facilities  
337 previously employed by the Department of Corrections, the State Board of Pardons and  
338 Paroles, and the Department of Juvenile Justice for functions transferred to the Governor's  
339 Office of Transition, Support, and Reentry pursuant to this article shall likewise be

340 transferred to Governor's Office of Transition, Support, and Reentry. Any disagreement  
 341 as to any of such transfers shall be resolved by the Governor.

342 42-3-34.

343 There shall be a director of the Governor's Office of Transition, Support, and Reentry who  
 344 shall be both appointed by and serve at the pleasure of the Governor. Subject to the  
 345 policies, rules, and regulations established by the board for such office, the director shall  
 346 supervise, direct, account for, organize, plan, administer, and execute the functions of such  
 347 office. The director shall receive an annual salary to be set by the Governor which shall  
 348 be his or her total compensation for services as director. The director shall be reimbursed  
 349 for all actual and necessary expenses incurred by him or her in carrying out his or her  
 350 official duties. The position of director shall be a separate and distinct position from any  
 351 other position in state government. The duties of the director shall be performed by the  
 352 director and not by any other officer of state government, and the director shall not perform  
 353 the duties of any other officer of state government.

354 42-3-35.

355 (a) The director may establish units within the Governor's Office of Transition, Support,  
 356 and Reentry as he or she deems proper for its administration and shall designate persons  
 357 to be assistant directors of each unit and to exercise authority as he or she may delegate to  
 358 them in writing as approved by the board.

359 (b) No person shall be compensated for services to the Governor's Office of Transition,  
 360 Support, and Reentry on a commission or contingent fee basis.

361 (c) Neither the director nor any employee of the Governor's Office of Transition, Support,  
 362 and Reentry shall be given or receive any fee, compensation, loan, gift, or other thing of  
 363 value in addition to the compensation and expense allowance provided by law for any  
 364 service or pretended service either rendered or to be rendered as director or employee of  
 365 the Governor's Office of Transition, Support, and Reentry.

366 ARTICLE 3

367 42-3-50.

368 (a) As used in this article, the term:

369 (1) 'Agency' means any private or public agency or organization approved by the court  
 370 to participate in a community service program.

371 (2) 'Community service' means uncompensated work by an offender with an agency for  
 372 the benefit of the community pursuant to an order by a court as a condition of probation.

373 Such term includes uncompensated service by an offender who lives in the household of  
374 a disabled person and provides aid and services to such disabled person, including, but  
375 not limited to, cooking, housecleaning, shopping, driving, bathing, and dressing.

376 (3) 'Community service officer' means an individual appointed by the court to place and  
377 supervise offenders sentenced to community service. Such term may mean a paid  
378 professional or a volunteer.

379 (b) Except as provided in subsection (c) of this Code section, it shall be unlawful for an  
380 agency or community service officer to use or allow an offender to be used for any purpose  
381 resulting in private gain to any individual.

382 (c) Subsection (b) of this Code section shall not apply to:

383 (1) Services provided by an offender to a disabled person in accordance with paragraph  
384 (1) of subsection (c) of Code Section 42-3-52;

385 (2) Work on private property because of a natural disaster; or

386 (3) An order or direction by the sentencing court.

387 (d) Any person who violates subsection (b) of this Code section shall be guilty of a  
388 misdemeanor.

389 42-3-51.

390 (a) Agencies desiring to participate in a community service program shall file with the  
391 court a letter of application showing:

392 (1) Eligibility;

393 (2) Number of offenders who may be placed with the agency;

394 (3) Work to be performed by the offender; and

395 (4) Provisions for supervising the offender.

396 (b) An agency selected for the community service program shall work offenders who are  
397 assigned to the agency by the court. If an offender violates a court order, the agency shall  
398 report such violation to the community service officer.

399 (c) If an agency violates any court order or provision of this article, the offender shall be  
400 removed from the agency and the agency shall no longer be eligible to participate in the  
401 community service program.

402 (d) No agency or community service officer shall be liable at law as a result of any of such  
403 agency's or community service officer's acts performed while participating in a community  
404 service program. This limitation of liability shall not apply to actions on the part of any  
405 agency or community service officer which constitute gross negligence, recklessness, or  
406 willful misconduct.

407 42-3-52.

408 (a) Community service may be considered as a condition of probation with primary  
409 consideration given to the following categories of offenders:

410 (1) Traffic violations;

411 (2) Ordinance violations;

412 (3) Noninjurious or nondestructive, nonviolent misdemeanors;

413 (4) Noninjurious or nondestructive, nonviolent felonies; and

414 (5) Other offenders considered upon the discretion of the court.

415 (b) The court may confer with the prosecuting attorney, the offender or his or her attorney  
416 if the offender is represented by an attorney, a community supervision officer, a community  
417 service officer, or other interested persons to determine if the community service program  
418 is appropriate for an offender. If community service is ordered as a condition of probation,  
419 the court shall order:

420 (1) Not less than 20 hours nor more than 250 hours in cases involving traffic or  
421 ordinance violations or misdemeanors, such service to be completed within one year; or

422 (2) Not less than 20 hours nor more than 500 hours in felony cases, such service to be  
423 completed within three years.

424 (c)(1) Any agency may recommend to the court that certain disabled persons are in need  
425 of a live-in attendant. The court shall confer with the prosecuting attorney, the offender  
426 or his or her attorney if the offender is represented by an attorney, a community  
427 supervision officer, a community service officer, or other interested persons to determine  
428 if a community service program involving a disabled person is appropriate for an  
429 offender. If community service as a live-in attendant for a disabled person is deemed  
430 appropriate and if both the offender and the disabled person consent to such service, the  
431 court may order such live-in community service as a condition of probation but for no  
432 longer than two years.

433 (2) The agency shall be responsible for coordinating the provisions of the cost of food  
434 or other necessities for the offender which the disabled person is not able to provide. The  
435 agency, with the approval of the court, shall determine a schedule which will provide the  
436 offender with certain free hours each week.

437 (3) Such live-in arrangement shall be terminated by the court upon the request of the  
438 offender or the disabled person. Upon termination of such arrangement, the court shall  
439 determine if the offender has met the conditions of probation.

440 (4) The appropriate agency shall make personal contact with the disabled person on a  
441 frequent basis to ensure the safety and welfare of the disabled person.

442 (d) The court may order an offender to perform community service hours in a 40 hour per  
443 week work detail in lieu of incarceration.

444 (e) Community service hours may be added to original court ordered hours as a  
445 disciplinary action by the court, as an additional requirement of any program in lieu of  
446 incarceration, or as part of the sentencing options system as set forth in Article 6 of this  
447 chapter.

448 42-3-53.

449 The community service officer shall place an offender sentenced to community service as  
450 a condition of probation with an appropriate agency. The agency and work schedule shall  
451 be approved by the court. If the offender is employed at the time of sentencing or if the  
452 offender becomes employed after sentencing, the community service officer shall consider  
453 the offender's work schedule and, to the extent practicable, shall schedule the community  
454 service so that it will not conflict with the offender's work schedule. This shall not be  
455 construed as requiring the community service officer to alter scheduled community service  
456 based on changes in an offender's work schedule. The community service officer shall  
457 supervise the offender for the duration of the community service sentence. Upon  
458 completion of the community service sentence, the community service officer shall prepare  
459 a written report evaluating the offender's performance which shall be used to determine if  
460 the conditions of probation have been satisfied.

461 42-3-54.

462 (a) The provisions of Article 2 of Chapter 8 of this title shall be applicable to offenders  
463 sentenced to community service as a condition of probation pursuant to this article. The  
464 provisions of Article 3 of Chapter 8 of this title shall be applicable to first offenders  
465 sentenced pursuant to this article. The provisions of Article 6 of Chapter 8 of this title shall  
466 be applicable to misdemeanor or ordinance violator offenders sentenced to community  
467 service as a condition of probation pursuant to this article.

468 (b) Any offender who provides live-in community service but who is later incarcerated for  
469 breaking the conditions of probation or for any other cause may be awarded good time for  
470 each day of live-in community service the same as if such offender were in prison for such  
471 number of days.

472 ARTICLE 4

473 42-3-70.

474 DCS shall be authorized to establish and operate pretrial release and diversion programs  
475 as rehabilitative measures for persons charged with felonies for which bond is permissible  
476 under the law in the courts of this state prior to conviction; provided, however, that no such

477 program shall be established in a county without the unanimous approval of the superior  
478 court judges, the district attorney, and the sheriff of such county. The board shall  
479 promulgate rules and regulations governing any pretrial release and diversion programs  
480 established and operated by DCS and shall grant authorization for the establishment of such  
481 programs based on the availability of sufficient staff and resources.

482 42-3-71.

483 The court in which a person is charged with a felony for which bond is permissible under  
484 the law may, upon the application by the person so charged, at its discretion release the  
485 person prior to conviction and upon recognizance to the supervision of a pretrial release or  
486 diversion program established and operated by DCS after an investigation and upon  
487 recommendation of the staff of the pretrial release or diversion program. In no case,  
488 however, shall any person be so released unless after consultation with his or her attorney  
489 or an attorney made available to the person if he or she is indigent that person has  
490 voluntarily agreed to participate in the pretrial release or diversion program and knowingly  
491 and intelligently has waived his or her right to a speedy trial for the period of pretrial  
492 release or diversion.

493 42-7-72.

494 DCS may contract with the various counties of this state for the services and facilities  
495 necessary to operate pretrial release and diversion programs established under this article,  
496 and both DCS and the counties are authorized to enter into such contracts as are appropriate  
497 to carry out the purpose of this article.

498 42-3-73.

499 The authority to establish and operate pretrial release and diversion programs granted to  
500 DCS under this article shall not affect the authority of the Georgia Department of Labor  
501 to enter into agreements with district attorneys of the several judicial circuits of this state  
502 for the purpose of establishing and operating pretrial intervention programs in such judicial  
503 circuits.

504 42-3-74.

505 No person shall be released on his or her own recognizance or approved for a pretrial  
506 release and diversion program without first having the approval in writing of the judge of  
507 the court having jurisdiction of the case.

508

ARTICLE 5509 42-3-90.

510 A county shall be authorized to establish a diversion center under the direction of the  
511 sheriff of the county in which the diversion center is located and a diversion program for  
512 the confinement of certain persons who have been found in contempt of court for violation  
513 of orders granting temporary or permanent alimony or child support and sentenced  
514 pursuant to subsection (c) of Code Section 15-1-4. While in such diversion program, the  
515 respondent shall be authorized to travel to and from his or her place of employment and to  
516 continue his or her occupation. The official in charge of the diversion program or his or  
517 her designee shall prescribe the routes, manner of travel, and periods of travel to be used  
518 by the respondent in attending to his or her occupation. If the respondent's occupation  
519 requires the respondent to travel away from his or her place of employment, the amount  
520 and conditions of such travel shall be approved by the official in charge of the diversion  
521 center or his or her designee. When the respondent is not traveling to or from his or her  
522 place of employment or engaging in his or her occupation, such person shall be confined  
523 in the diversion center during the term of the sentence. With the approval of the sheriff or  
524 his or her designee, the respondent may participate in educational or counseling programs  
525 offered at the diversion center. While participating in the diversion program, the  
526 respondent shall be liable for alimony or child support as previously ordered, including  
527 arrears, and his or her income shall be subject to the provisions of Code Sections 19-6-30  
528 through 19-6-33 and Chapter 11 of Title 19. In addition, should any funds remain after  
529 payment of child support or alimony, the respondent may be charged and a fee payable to  
530 the county operating the diversion program to cover the costs of his or her incarceration  
531 and the administration of the diversion program which fee shall be not more than \$30.00  
532 per day or the actual per diem cost of maintaining the respondent, whichever is less, for the  
533 entire period of time the person is confined to the center and participating in the program.  
534 If the respondent fails to comply with any of the requirements imposed upon him or her in  
535 accordance with this Code section, nothing shall prevent the sentencing judge from  
536 revoking such assignment to a diversion program and providing for alternative methods of  
537 incarceration.

538

ARTICLE 6539 42-8-110.540 This article shall be known and may be cited as the 'Probation Management Act.'

541 42-3-111.

542 For purposes of this article, the term:

543 (1) 'Chief community supervision officer' means the highest ranking field community  
544 supervision officer in each judicial circuit.

545 (2) 'Electronic monitoring' means supervising, mapping, or tracking the location of a  
546 probationer by means including electronic surveillance, voice recognition, facial  
547 recognition, fingerprinting or biometric scan, automated kiosk, automobile ignition  
548 interlock device, or global positioning systems which may coordinate data with crime  
549 scene information.

550 (3) 'Hearing officer' means an impartial DCS employee or representative who has been  
551 selected and appointed to hear alleged cases regarding violations of probation for  
552 administrative sanctioning.

553 (4) 'Initial sanction' means the sanction set by the judge upon initial sentencing.

554 (5) 'Intensive probation' means a level of probation supervision which includes, but is not  
555 limited to, curfews, community service, drug testing, program participation, special  
556 conditions of probation, and general conditions of probation as set forth in Code Section  
557 42-8-35.

558 (6) 'Options system day reporting center' means a state facility providing supervision of  
559 probationers which includes, but is not limited to, mandatory reporting, program  
560 participation, drug testing, community service, all special conditions of probation, and  
561 general conditions of probation as set forth in Code Section 42-8-35.

562 (7) 'Options system probationer' means a probationer who has been sentenced to the  
563 sentencing options system.

564 (8) 'Probation supervision' means a level of probation supervision which includes, but  
565 is not limited to, general conditions of probation as set forth in Code Section 42-8-35 and  
566 all special conditions of probation.

567 (9) 'Residential substance abuse treatment facility' means a state correctional facility that  
568 provides inpatient treatment for alcohol and drug abuse.

569 (10) 'Sentencing options system' means a continuum of sanctions for probationers that  
570 includes the sanctions set forth in subsection (c) of Code Section 42-3-113.

571 42-3-112.

572 (a) In addition to any other terms or conditions of probation provided for under this  
573 chapter, the sentencing judge may require that defendants who are sentenced to probation  
574 pursuant to subsection (c) of Code Section 42-8-34 be ordered to the sentencing options  
575 system.

576 (b) When a defendant has been ordered to the sentencing options system, the court shall  
577 retain jurisdiction throughout the period of the probated sentence as provided in  
578 subsection (g) of Code Section 42-8-34 and may modify or revoke any part of a probated  
579 sentence as provided in Code Section 42-8-34.1 and subsection (c) of Code Section  
580 42-8-38.

581 42-3-113.

582 (a) DCS shall be authorized to establish by rules and regulations a system of administrative  
583 sanctions as an alternative to judicial modifications or revocations for probationers who  
584 violate the terms and conditions of the sentencing options system established under this  
585 article. DCS may not, however, sanction probationers for violations of special conditions  
586 of probation or general conditions of probation for which the sentencing judge has  
587 expressed an intention that such violations be heard by the court pursuant to Code Section  
588 42-8-34.1.

589 (b) DCS shall only impose restrictions which are equal to or less restrictive than the  
590 sanction cap set by the sentencing judge.

591 (c) The administrative sanctions which may be imposed by DCS are as follows, from most  
592 restrictive to least restrictive:

593 (1) Probation detention center or residential substance abuse treatment facility;

594 (2) Probation boot camp;

595 (3) DCS day reporting center;

596 (4) Intensive probation;

597 (5) Electronic monitoring;

598 (6) Community service; or

599 (7) Probation supervision.

600 (d) DCS may order offenders sanctioned pursuant to paragraphs (1) through (3) of  
601 subsection (c) of this Code section to be held in the local jail until transported to a  
602 designated facility.

603 42-3-114.

604 (a) Whenever an options system probationer is arrested on a warrant for an alleged  
605 violation of probation, an informal preliminary hearing shall be held within a reasonable  
606 time not to exceed 15 days.

607 (b) A preliminary hearing shall not be required when:

608 (1) The probationer is not under arrest on a warrant;

609 (2) The probationer signed a waiver of a preliminary hearing; or

610 (3) The administrative hearing referred to in Code Section 42-3-115 will be held within  
611 15 days of arrest.

612 42-3-115.

613 (a) If an options system probationer violates the conditions of probation, DCS may impose  
614 administrative sanctions as an alternative to judicial modification or revocation of  
615 probation.

616 (b) Upon issuance of a petition outlining the alleged probation violations, the chief  
617 community supervision officer, or his or her designee, may conduct a hearing to determine  
618 whether an options system probationer has violated a condition of probation. If the chief  
619 community supervision officer determines that the probationer has violated a condition of  
620 probation, the chief community supervision officer shall be authorized to impose sanctions  
621 consistent with paragraphs (4) through (7) of subsection (c) of Code Section 42-3-113. The  
622 failure of an options system probationer to comply with a sanction imposed by the chief  
623 community supervision officer shall constitute a violation of probation.

624 (c)(1) Upon issuance of a petition outlining the alleged probation violations, the hearing  
625 officer may initiate an administrative proceeding to determine whether an options system  
626 probationer has violated a condition of probation. If the hearing officer determines by  
627 a preponderance of the evidence that the probationer has violated a condition of  
628 probation, the hearing officer may impose sanctions consistent with Code Section  
629 42-3-113.

630 (2) The administrative proceeding provided for under this subsection shall be  
631 commenced within 15 days but not less than 48 hours after notice of the administrative  
632 proceeding has been served on the probationer. The administrative proceeding may be  
633 conducted electronically.

634 (d) The failure of a probationer to comply with the sanction or sanctions imposed by the  
635 chief community supervision officer or hearing officer shall constitute a violation of  
636 probation.

637 (e) An options system probationer may at any time waive a hearing and voluntarily accept  
638 the sanctions proposed by DCS.

639 42-3-116.

640 (a) The hearing officer's decision shall be final unless the options system probationer files  
641 a request for review with the senior hearing officer. A request for review must be filed  
642 within 15 days of the issuance of DCS's decision. Such request shall not stay DCS's  
643 decision. The senior hearing officer shall issue a response within seven days of receipt of  
644 the review request.

645 (b) The senior hearing officer's decision shall be final unless the options system  
 646 probationer files an appeal in the sentencing court. Such appeal shall name the  
 647 commissioner as defendant and shall be filed within 30 days of the issuance of the decision  
 648 by the senior hearing officer.

649 (c) This appeal shall first be reviewed by the judge upon the record. At the judge's  
 650 discretion, a de novo hearing may be held on the decision. The filing of the appeal shall  
 651 not stay DCS's decision.

652 (d) Where the sentencing judge does not act on the appeal within 30 days of the date of the  
 653 filing of the appeal, DCS's decision shall be affirmed by operation of law.

654 42-3-117.

655 Nothing contained in this article shall be construed as repealing any power given to any  
 656 court of this state to place offenders on probation or to provide conditions of supervision  
 657 for offenders.

658 42-3-118.

659 This article shall only apply in judicial circuits where DCS has allocated certified hearing  
 660 officers.

661 42-3-119.

662 This article shall be liberally construed so that its purposes may be achieved."

663 **PART II**  
 664 **ADVISORY COUNCIL FOR PROBATION**  
 665 **SECTION 2-1.**

666 Said title is further amended by repealing in its entirety Article 1 of Chapter 8, relating to the  
 667 Advisory Council for Probation, and designating said article as reserved.

668 **PART III**  
 669 **COUNTY AND MUNICIPAL**  
 670 **PROBATION ADVISORY COUNCIL**  
 671 **SECTION 3-1.**

672 (a) The General Assembly finds that:

673 (1) The authorization for county and municipal probation offices and private probation  
 674 services was enacted to provide cost savings to the state by using state probation services

675 for felony offenders and utilizing county and municipal probation offices and private  
 676 probation entities which contract with courts for the supervision of misdemeanor and  
 677 county and city ordinance offenders;

678 (2) In enacting such legislation, the General Assembly intended to authorize judges to  
 679 use county and municipal probation offices and private probation services providers to  
 680 supervise misdemeanor and county and city ordinance offenders in the same manner as  
 681 the judges of the superior courts use state probation services as a means of supervising  
 682 felony offenders;

683 (3) The General Assembly did not intend to restrict the powers of judges to impose,  
 684 suspend, toll, revoke, or otherwise manage the probation of misdemeanor and county and  
 685 city ordinance offenders sentenced in such courts when utilizing county and municipal  
 686 probation offices and private probation services providers; and

687 (4) The General Assembly intended that county and municipal probation officers and  
 688 private probation officers, when acting in performance of their official duties in  
 689 supervising probationers in accordance with law and the orders of a court, would have  
 690 the same rights, authority, and protections as state probation supervisors.

691 (b) It is the intention of the General Assembly to improve the use and provision of probation  
 692 services by courts for misdemeanor and ordinance violations by enacting this part.

693 **SECTION 3-2.**

694 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
 695 by revising Article 6 of Chapter 8, relating to agreements for probation services, as follows:

696 "ARTICLE 6

697 42-8-100.

698 (a) As used in this article, the term:

699 (1) 'Board' means the Board of Community Supervision. 'Council' means the County and  
 700 Municipal Probation Advisory Council created under Code Section 42-8-101.

701 (2) 'Private probation officer' means a probation officer an individual employed by a  
 702 private corporation, private enterprise, private agency, or other private entity ~~that~~  
 703 provides probation services to supervise defendants placed on probation by a court for  
 704 committing an ordinance violation or misdemeanor.

705 (3) 'Probation officer' means a person an individual employed by a governing authority  
 706 of a county, municipality, or consolidated government to supervise defendants placed on  
 707 probation by a ~~county or municipal~~ court for committing an ordinance violation or  
 708 misdemeanor.

709 ~~(b) Any county or municipal court which has original jurisdiction of ordinance violations~~  
 710 ~~or misdemeanors and in which the defendant in such a case has been found guilty upon~~  
 711 ~~verdict or any plea may, at a time to be determined by the court, hear and determine the~~  
 712 ~~question of the probation of such defendant.~~

713 ~~(c) If it appears to the court upon a hearing of the matter that the defendant is not likely to~~  
 714 ~~engage in an unlawful course of conduct and that the ends of justice and the welfare of~~  
 715 ~~society do not require that the defendant shall presently suffer the penalty imposed by law,~~  
 716 ~~the court in its discretion shall impose sentence upon the defendant but may stay and~~  
 717 ~~suspend the execution of the sentence or any portion thereof or may place him or her on~~  
 718 ~~probation under the supervision and control of a probation officer for the duration of such~~  
 719 ~~probation, subject to the provisions of this Code section. The period of probation or~~  
 720 ~~suspension shall not exceed the maximum sentence of confinement which could be~~  
 721 ~~imposed on the defendant.~~

722 ~~(d) The court may, in its discretion, require the payment of a fine or costs, or both, as a~~  
 723 ~~condition precedent to probation.~~

724 ~~(e) The sentencing judge shall not lose jurisdiction over any person placed on probation~~  
 725 ~~during the term of his or her probated sentence. The judge is empowered to revoke any or~~  
 726 ~~all of the probated sentence, rescind any or all of the sentence, or, in any manner deemed~~  
 727 ~~advisable by the judge, modify or change the probated sentence at any time during the~~  
 728 ~~period of time originally prescribed for the probated sentence to run.~~

729 ~~(f) If a defendant is placed on probation pursuant to this Code section by a county or~~  
 730 ~~municipal court other than one for the county or municipality in which he or she resides for~~  
 731 ~~committing any ordinance violation or misdemeanor, such defendant may, when~~  
 732 ~~specifically ordered by the court, have his or her probation supervision transferred to the~~  
 733 ~~county or municipality in which he or she resides.~~

734 42-8-101.

735 ~~(g)~~(a)(1) The chief judge of any court within ~~the~~ a county, with the approval of the  
 736 governing authority of ~~that~~ such county, is shall be authorized to enter into written  
 737 contracts with corporations, enterprises, or agencies to provide probation supervision,  
 738 counseling, collection services for all moneys to be paid by a defendant according to the  
 739 terms of the sentence imposed on the defendant as well as any moneys which by  
 740 operation of law are to be paid by the defendant in consequence of the conviction, and  
 741 other probation services for persons convicted in ~~that~~ such court and placed on probation  
 742 in ~~the~~ such county. In no case shall a private probation corporation or enterprise be  
 743 charged with the responsibility for supervising a felony sentence. The final contract  
 744 negotiated by the chief judge with the private probation entity shall be attached to the

745 approval by the governing authority of the county to privatize probation services as an  
 746 exhibit thereto. The termination of a contract for probation services as provided for in  
 747 this subsection ~~entered into on or after July 1, 2001~~, shall be initiated by the chief judge  
 748 of the court which entered into the contract, and subject to approval by the governing  
 749 authority of the county which entered into the contract and in accordance with the agreed  
 750 upon, written provisions of such contract. ~~The termination of a contract for probation~~  
 751 ~~services as provided for in this subsection in existence on July 1, 2001, and which~~  
 752 ~~contains no provisions relating to termination of such contract shall be initiated by the~~  
 753 ~~chief judge of the court which entered into the contract, and subject to approval by the~~  
 754 ~~governing authority of the county which entered into the contract and in accordance with~~  
 755 ~~the agreed upon, written provisions of such contract.~~

756 (2) The chief judge of any court within ~~the~~ a county, with the approval of the governing  
 757 authority of ~~that~~ such county, is authorized to establish a county probation system to  
 758 provide probation supervision, counseling, collection services for all moneys to be paid  
 759 by a defendant according to the terms of the sentence imposed on the defendant as well  
 760 as any moneys which by operation of law are to be paid by the defendant in consequence  
 761 of the conviction, and other probation services for persons convicted in ~~that~~ such court  
 762 and placed on probation in ~~the~~ such county.

763 ~~(h)~~(b)(1) The judge of the municipal court of any municipality or consolidated  
 764 government of a municipality and county of this state, with the approval of the governing  
 765 authority of ~~that~~ such municipality or consolidated government, is authorized to enter into  
 766 written contracts with private corporations, enterprises, or agencies to provide probation  
 767 supervision, counseling, collection services for all moneys to be paid by a defendant  
 768 according to the terms of the sentence imposed ~~and~~ on the defendant as well as any  
 769 moneys which by operation of law are to be paid by the defendant in consequence of the  
 770 conviction, and other probation services for persons convicted in such court and placed  
 771 on probation. The final contract negotiated by the judge with the private probation entity  
 772 shall be attached to the approval by the governing authority of the municipality or  
 773 consolidated government to privatize probation services as an exhibit thereto. The  
 774 termination of a contract for probation services as provided for in this subsection shall be  
 775 initiated by the chief judge of the court which entered into the contract and shall be  
 776 subject to approval by the governing authority of the municipality or consolidated  
 777 government which entered into the contract and in accordance with the agreed upon,  
 778 written provisions of such contract.

779 (2) The judge of the municipal court of any municipality or consolidated government of  
 780 a municipality and county of this state, with the approval of the governing authority of  
 781 ~~that~~ such municipality or consolidated government, is authorized to establish a probation

782 system to provide probation supervision, counseling, collection services for all moneys  
783 to be paid by a defendant according to the terms of the sentence imposed ~~and~~ on the  
784 defendant as well as any moneys which by operation of law are to be paid by the  
785 defendant in consequence of the conviction, and other probation services for persons  
786 convicted in such court and placed on probation.

787 42-8-102.

788 (a) Any court which has original jurisdiction of ordinance violations or misdemeanors and  
789 in which the defendant in such a case has been found guilty upon verdict or has pled guilty  
790 or nolo contendere may, at a time to be determined by the court, hear and determine the  
791 question of the probation of such defendant.

792 (b) If it appears to the court upon a hearing of the matter that the defendant is not likely  
793 to engage in an unlawful course of conduct and that the ends of justice and the welfare of  
794 society do not require that the defendant shall presently suffer the penalty imposed by law,  
795 the court in its discretion shall impose sentence upon the defendant but may stay and  
796 suspend the execution of the sentence or any portion thereof or may place him or her on  
797 probation under the supervision and control of a probation officer or private probation  
798 officer for the duration of such probation, subject to the provisions of this Code section.  
799 The period of probation or suspension shall not exceed the maximum sentence of  
800 confinement which could be imposed on the defendant; provided, however, that nothing  
801 in this chapter shall be construed to limit the ability of a court to toll a sentence as provided  
802 in this article.

803 (c) The court may, in its discretion, require the payment of a fine, fees, or restitution as a  
804 condition of probation. The provisions of Chapter 14 of Title 17 shall control in  
805 determining the amount of restitution. When probation supervision is required, the court  
806 may require the payment of a probation supervision fee as a condition of probation. In  
807 determining the financial obligations, other than restitution, to impose on the defendant,  
808 the court may consider:

- 809 (1) The defendant's financial resources and other assets, including whether any such asset  
810 is jointly controlled;  
811 (2) The defendant's earnings and other income;  
812 (3) The defendant's financial obligations, including obligations to dependents;  
813 (4) The period of time during which the probation order will be in effect;  
814 (5) The goal of the punishment being imposed; and  
815 (6) Any other factor the court deems appropriate.

816 (d) The court may convert fines, statutory surcharges, and probation supervision fees to  
817 community service on the same basis as it allows a defendant to pay a fine through  
818 community service as set forth in subsection (d) of Code Section 17-10-1.

819 (e)(1) As used in this subsection, the term:

820 (A) 'Developmental disability' shall have the same meaning as set forth in Code  
821 Section 37-1-1.

822 (B) 'Indigent' means an individual who earns less than 100 percent of the federal  
823 poverty guidelines unless there is evidence that the individual has other resources that  
824 might reasonably be used without undue hardship for such individual or his or her  
825 dependents.

826 (C) 'Significant financial hardship' means a reasonable probability that an individual  
827 will be unable to satisfy his or her financial obligations for two or more consecutive  
828 months.

829 (D) 'Totally and permanently disabled' shall have the same meaning as set forth in  
830 Code Section 49-4-80.

831 (2) The court shall waive, modify, or convert fines, statutory surcharges, probation  
832 supervision fees, and any other moneys assessed by the court or a provider of probation  
833 services upon a determination by the court prior to or subsequent to sentencing that a  
834 defendant has a significant financial hardship or inability to pay or that there are any  
835 other extenuating factors which prohibit payment or collection; provided, however, that  
836 the imposition of sanctions for failure to pay such sums shall be within the discretion of  
837 the court through judicial process or hearings.

838 (3) Unless rebutted by a preponderance of the evidence that a defendant will be able to  
839 satisfy his or her financial obligations without undue hardship to the defendant or his or  
840 her dependents, a defendant shall be presumed to have a significant financial hardship if  
841 he or she:

842 (A) Has a developmental disability;

843 (B) Is totally and permanently disabled;

844 (C) Is indigent; or

845 (D) Has been released from confinement within the preceding 12 months and was  
846 incarcerated for more than 30 days before his or her release.

847 (f)(1) The sentencing judge shall not lose jurisdiction over any person placed on  
848 probation during the term of his or her probated sentence. As further set forth in this  
849 subsection, the judge may revoke any or all of the probated sentence, rescind any or all  
850 of the sentence, or, in any manner deemed advisable by the judge, modify or change the  
851 probated sentence, including tolling the sentence as provided in this article, at any time  
852 during the period of time originally prescribed for the probated sentence to run.

853 (2) Absent a waiver, the court shall not revoke a probationary sentence for failure to pay  
 854 finer, statutory surcharges, or probation supervision fees without holding a hearing,  
 855 inquiring into the reasons for the probationer's failure to pay, and, if a probationary  
 856 sentence is revoked, making an express written determination that the probationer has not  
 857 made sufficient bona fide efforts to pay and the probationer's failure to pay was willful  
 858 or that adequate alternative types of punishment do not exist. Should the probationer fail  
 859 to appear at such hearing, the court may, in its discretion, revoke the probated sentence.

860 (3) A person otherwise found eligible to have his or her probation modified or terminated  
 861 pursuant to paragraph (1) of this subsection shall not be deemed ineligible for  
 862 modification or termination of probation solely due to his or her failure to pay fines,  
 863 statutory surcharges, or probation supervision fees.

864 (4) At any revocation hearing, upon proof that the probationer has violated probation:

865 (A) For failure to report to probation or failure to pay fines, statutory surcharges, or  
 866 probation supervision fees, the court shall consider the use of alternatives to  
 867 confinement, including community service, modification of the terms of probation, or  
 868 any other alternative deemed appropriate by the court. The court shall consider whether  
 869 a failure to pay court imposed financial obligations was willful. In the event an  
 870 alternative is not warranted, the court shall revoke the balance of probation or a period  
 871 not to exceed 120 days in confinement, whichever is less; and

872 (B) For failure to comply with any other general provision of probation or suspension,  
 873 the court shall consider the use of alternatives to confinement, including community  
 874 service or any other alternative deemed appropriate by the court. In the event an  
 875 alternative is not warranted, the court shall revoke the balance of probation or a period  
 876 not to exceed two years in confinement, whichever is less.

877 (g) If a defendant is placed on probation pursuant to this Code section by a court other than  
 878 one for the county or municipality in which he or she resides for committing any ordinance  
 879 violation or misdemeanor, such defendant may, when specifically ordered by the court,  
 880 have his or her probation supervision transferred to the county or municipality in which he  
 881 or she resides.

882 42-8-103.

883 (a) As used in this Code section, the term 'pay-only probation' means a defendant has been  
 884 placed under probation supervision solely because such defendant in unable to pay the  
 885 court imposed fines and statutory surcharges when such defendant's sentence is imposed.  
 886 Such term shall not include circumstances when restitution has been imposed or other  
 887 probation services are deemed appropriate by the court.

888 (b) When pay-only probation is imposed, the probation supervision fees shall be capped  
 889 so as not to exceed three months of ordinary probation supervision fees notwithstanding  
 890 the number of cases for which a fine and statutory surcharge were imposed or that the  
 891 defendant was sentenced to serve consecutive sentences; provided, however, that collection  
 892 of any probation supervision fee shall terminate as soon as all court imposed fines and  
 893 statutory surcharges are paid in full.

894 (c) If pay-only probation is subsequently converted to a sentence that requires community  
 895 supervision, the court, on petition by a probation officer or private probation officer, may  
 896 reinstate probation supervision fees as necessary to monitor the probationer's compliance  
 897 with community service obligations.

898 42-8-104.

899 (a) A court which utilizes the services of a probation officer or private probation officer  
 900 shall determine the terms and conditions of probation under this article and may provide  
 901 such terms and conditions of probation as the court deems appropriate, including, but not  
 902 limited to, providing that the probationer shall:

903 (1) Avoid injurious and vicious habits;

904 (2) Avoid persons or places of disreputable or harmful character;

905 (3) Report to the probation officer or private probation officer, as the case may be, as  
 906 directed;

907 (4) Permit the probation officer or private probation officer, as the case may be, to visit  
 908 the probationer at the probationer's home or elsewhere;

909 (5) Work faithfully at suitable employment insofar as may be possible;

910 (6) Remain within a specified location; provided, however, that the court shall not banish  
 911 a probationer to any area within this state:

912 (A) That does not consist of at least one entire judicial circuit as described by Code  
 913 Section 15-6-1; or

914 (B) In which any service or program in which the probationer must participate as a  
 915 condition of probation is not available;

916 (7) Make reparation or restitution to any aggrieved person for the damage or loss caused  
 917 by the probationer's offense, in an amount to be determined by the court in accordance  
 918 with the provisions of Article 1 of Chapter 14 of Title 17. Unless otherwise provided by  
 919 law, no reparation or restitution to any aggrieved person for the damage or loss caused  
 920 by the probationer's offense shall be made if the amount is in dispute unless the same has  
 921 been determined as provided in Article 1 of Chapter 14 of Title 17;

922 (8) Make reparation or restitution as reimbursement to a municipality or county for the  
 923 payment for medical care furnished to the person while incarcerated pursuant to the

924 provisions of Article 3 of Chapter 4 of this title. No reparation or restitution to a local  
925 governmental unit for the provision of medical care shall be made if the amount is in  
926 dispute unless the same has been determined as provided in Article 1 of Chapter 14 of  
927 Title 17;

928 (9) Repay the costs incurred by any municipality or county for wrongful actions by an  
929 inmate covered under the provisions of paragraph (1) of subsection (a) of Code  
930 Section 42-4-71;

931 (10) Support the probationer's legal dependents to the best of the probationer's ability;

932 (11) Violate no local, state, or federal laws and be of general good behavior;

933 (12) If permitted to move or travel to another state, agree to waive extradition from any  
934 jurisdiction where the probationer may be found and not contest any effort by any  
935 jurisdiction to return the probationer to this state;

936 (13) Submit to evaluations and testing relating to rehabilitation and participate in and  
937 successfully complete rehabilitative programming as directed by the court, including  
938 periodic screening for drugs and alcohol as ordered by the court and mental health  
939 evaluations as ordered by the court. The court may assess and the probation officer or  
940 private probation officer, as the case may be, shall be authorized to collect the costs or  
941 a portion of the costs, as determined by the court, of such evaluations, testing,  
942 rehabilitation programs, and screenings from the probationer;

943 (14) Wear a device capable of tracking the location of the probationer by means  
944 including electronic surveillance or global positioning satellite systems. The court may  
945 assess and the probation officer or private probation officer, as the case may be, shall  
946 collect fees from the probationer for such monitoring at a rate not to exceed the amount  
947 charged for such monitoring by the Department of Community Supervision;

948 (15) Wear a device capable of detecting drug or alcohol use by the probationer. The  
949 court may assess and the probation officer or private probation officer, as the case may  
950 be, shall collect fees from the probationer for such monitoring at a rate not to exceed the  
951 amount charged for such monitoring by the Department of Community Supervision; and

952 (16) Complete a residential or nonresidential program for substance abuse or mental  
953 health treatment as indicated by a risk and needs assessment for which the court may  
954 assess, and the probation officer or private probation officer, as the case may be, shall be  
955 authorized to collect the costs of or a portion of the costs, as determined by the court, of  
956 such program from the probationer.

957 (b) Nothing in this Code section shall be construed as prohibiting a court in appropriate  
958 circumstances from imposing additional special conditions of probation unless otherwise  
959 prohibited by law.

960 42-8-105.

961 (a) It shall be the duty of a probationer, as a condition of probation, to keep his or her  
962 probation officer or private probation officer, as the case may be, informed as to his or her  
963 contact information, including residence and mailing address, telephone number, and  
964 e-mail address. The court may also require, as a condition of probation and under such  
965 terms as the court deems advisable, that the probationer keep his or her probation officer  
966 or private probation officer, as the case may be, informed as to his or her whereabouts.

967 (b)(1) The running of a probated sentence may be tolled upon the failure of a probationer  
968 to appear in court for a probation revocation hearing or to report as directed to his or her  
969 probation officer or private probation officer, as the case may be; either of such failures  
970 shall be evidenced by an affidavit from the probation officer or private probation officer,  
971 as the case may be, setting forth such failure and stating efforts made by such officer to  
972 contact the probationer. When the allegation is for failure to report, such affidavit shall  
973 include, at a minimum, an averment by the probation officer or private probation officer  
974 that:

975 (A) The probationer has failed to report to his or her probation officer or private  
976 probation officer, as the case may be, on at least two occasions;

977 (B) The officer has attempted to contact the probationer at least two times by telephone  
978 or e-mail at the probationer's last known telephone number or e-mail address, which  
979 information shall be listed in the affidavit;

980 (C) The officer has checked the local jail rosters and determined that the probationer  
981 is not incarcerated;

982 (D) The officer has sent a letter by first-class mail to the probationer's last known  
983 address, which shall be listed in the affidavit, advising the probationer that the officer  
984 will seek a tolling order if the probationer does not report to such officer, either by  
985 telephone or in person, within ten days of the date on which the letter was mailed; and

986 (E) The probationer has failed to report to the probation officer or private probation  
987 officer, as the case may be, as directed in the letter set forth in subparagraph (C) of this  
988 paragraph and ten days have passed since the date on which the letter was mailed.

989 (2) In the event the probationer reports to his or her probation officer or private probation  
990 officer, as the case may be, within the period prescribed in subparagraph (D) of paragraph  
991 (1) of this subsection, the probationer shall be scheduled to appear on the next available  
992 court calendar for a hearing to consider whether the probation sentence should be tolled.

993 (c) Upon receipt of the affidavit required by subsection (b) of this Code section, the court  
994 may, in its discretion, toll the probated sentence.

995 (d) The effective date of the tolling of the sentence shall be the date the court enters a  
996 tolling order and shall continue until the probationer personally reports to the probation

997 officer or private probation officer, as the case may be, is taken into custody in this state,  
 998 or is otherwise available to the court, whichever event first occurs.

999 (e) Any tolled period of time shall not be included in computing creditable time served on  
 1000 probation or as any part of the time that the probationer was sentenced to serve.

1001 (f) Any unpaid fines, restitution, or other moneys owed as a condition of probation shall  
 1002 be due when the probationer is arrested; provided, however, that if the entire balance of his  
 1003 or her probation is revoked, all the conditions of probation, including moneys owed, shall  
 1004 be negated by his or her imprisonment. If only part of the balance of the probation is  
 1005 revoked, the court shall determine the probationer's responsibility for the amount of the  
 1006 unpaid fines, restitution, and other moneys owed that shall be imposed upon his or her  
 1007 return to probation after release from imprisonment and may reduce arrearages under the  
 1008 same circumstances and conditions as set forth in subsection (f) of Code Section 42-8-102.

1009 ~~42-8-101.~~

1010 ~~(a) There is created the County and Municipal Probation Advisory Council, to be~~  
 1011 ~~composed of one superior court judge designated by The Council of Superior Court Judges~~  
 1012 ~~of Georgia, one state court judge designated by The Council of State Court Judges of~~  
 1013 ~~Georgia, one municipal court judge designated by the Council of Municipal Court Judges~~  
 1014 ~~of Georgia, one sheriff appointed by the Governor, one probate court judge designated by~~  
 1015 ~~The Council of Probate Court Judges of Georgia, one magistrate designated by the Council~~  
 1016 ~~of Magistrate Court Judges, the commissioner of corrections or his or her designee, one~~  
 1017 ~~public probation officer appointed by the Governor, one private probation officer or~~  
 1018 ~~individual with expertise in private probation services by virtue of his or her training or~~  
 1019 ~~employment appointed by the Governor, one mayor or member of a municipal governing~~  
 1020 ~~authority appointed by the Governor, and one county commissioner appointed by the~~  
 1021 ~~Governor. Members of the council appointed by the Governor shall be appointed for terms~~  
 1022 ~~of office of four years. With the exceptions of the public probation officer, the county~~  
 1023 ~~commissioner, the sheriff, the mayor or member of a municipal governing authority, and~~  
 1024 ~~the commissioner of corrections, each designee or representative shall be employed in their~~  
 1025 ~~representative capacity in a judicial circuit operating under a contract with a private~~  
 1026 ~~corporation, enterprise, or agency as provided under Code Section 42-8-100. No person~~  
 1027 ~~shall serve beyond the time he or she holds the office or employment by reason of which~~  
 1028 ~~he or she was initially eligible for appointment. In the event of death, resignation,~~  
 1029 ~~disqualification, or removal for any reason of any member of the council, the vacancy shall~~  
 1030 ~~be filled in the same manner as the original appointment and any successor shall serve for~~  
 1031 ~~the unexpired term. Such council shall promulgate rules and regulations regarding~~  
 1032 ~~contracts or agreements for the provision of probation services and the conduct of business~~

1033 ~~by private entities providing probation services and county, municipal, or consolidated~~  
 1034 ~~governments establishing probation systems as authorized by this article.~~

1035 ~~(b) The business of the council shall be conducted in the following manner:~~

1036 ~~(1) The council shall annually elect a chairperson and a vice chairperson from among its~~  
 1037 ~~membership. The offices of chairperson and vice chairperson shall be filled in such a~~  
 1038 ~~manner that they are not held in succeeding years by representatives of the same~~  
 1039 ~~component (law enforcement, courts, corrections) of the criminal justice system;~~

1040 ~~(2) The council shall meet at such times and places as it shall determine necessary or~~  
 1041 ~~convenient to perform its duties. The council shall also meet on the call of the~~  
 1042 ~~chairperson or at the written request of three of its members;~~

1043 ~~(3) The council shall maintain minutes of its meetings and such other records as it deems~~  
 1044 ~~necessary; and~~

1045 ~~(4) The council shall adopt such rules for the transaction of its business as it shall desire~~  
 1046 ~~and may appoint such committees as it considers necessary to carry out its business and~~  
 1047 ~~duties.~~

1048 ~~(c) Members of the council shall serve without compensation but shall receive the same~~  
 1049 ~~expense allowance per day as that received by a member of the General Assembly for each~~  
 1050 ~~day such member of the council is in attendance at a meeting of such council, plus either~~  
 1051 ~~reimbursement for actual transportation costs while traveling by public carrier or the same~~  
 1052 ~~mileage allowance for use of a personal motor vehicle in connection with such attendance~~  
 1053 ~~as members of the General Assembly receive. Payment of such expense and travel~~  
 1054 ~~allowance shall be subject to availability of funds and shall be in lieu of any per diem,~~  
 1055 ~~allowance, or other remuneration now received by any such member for such attendance.~~

1056 ~~(d) The council is assigned to the Administrative Office of the Courts for administrative~~  
 1057 ~~purposes only in accordance with Code Section 50-4-3. The funds necessary to carry out~~  
 1058 ~~the provisions of this article shall come from funds appropriated to the Administrative~~  
 1059 ~~Office of the Courts or otherwise available to the council. The council is authorized to~~  
 1060 ~~accept and use grants of funds for the purpose of carrying out the provisions of this article.~~

1061 42-8-106.

1062 ~~(e) The council board shall have the following powers and duties:~~

1063 ~~(1) To promulgate rules and regulations for the administration of the council, including~~  
 1064 ~~rules of procedure for its internal management and control;~~

1065 ~~(2)(1) To review the uniform professional standards for private probation officers and~~  
 1066 ~~uniform contract standards for private probation contracts established in Code Section~~  
 1067 ~~42-8-102 42-8-107 and submit a report with its recommendations to the General~~  
 1068 ~~Assembly;~~

1069 ~~(3)(2)~~ To promulgate rules and regulations to implement those uniform professional  
 1070 standards for probation officers ~~employed by a governing authority of a county,~~  
 1071 ~~municipality, or consolidated government that has established probation services and~~  
 1072 uniform agreement standards for the establishment of probation services by a county,  
 1073 municipality, or consolidated government established in Code Section ~~42-8-102~~  
 1074 42-8-107;

1075 ~~(4)(3)~~ To promulgate rules and regulations establishing a 40 hour initial orientation for  
 1076 newly hired private probation officers and for 20 hours per annum of continuing  
 1077 education for private probation officers, provided that the 40 hour initial orientation shall  
 1078 not be required of any person who has successfully completed a ~~probation or parole~~  
 1079 ~~officer~~ basic course of training for supervision of probationers or parolees certified by the  
 1080 Georgia Peace Officer Standards and Training Council or any private probation officer  
 1081 who has been employed by a private probation corporation, enterprise, or agency for at  
 1082 least six months as of July 1, 1996;

1083 ~~(5)(4)~~ To promulgate rules and regulations establishing a 40 hour initial orientation for  
 1084 probation officers ~~employed by a county, municipality, or consolidated government that~~  
 1085 ~~has established probation services~~ and for 20 hours per annum of continuing education  
 1086 for such probation officers, provided that the 40 hour initial orientation shall not be  
 1087 required of any person who has successfully completed a ~~probation or parole officer~~ basic  
 1088 course of training for supervision of probationers or parolees certified by the Georgia  
 1089 Peace Officer Standards and Training Council or any probation officer who has been  
 1090 employed by a county, municipality, or consolidated government as of March 1, 2006;

1091 ~~(6)(5)~~ To promulgate rules and regulations relative to compliance with the provisions of  
 1092 this article, and enforcement mechanisms that may include, but are not limited to, the  
 1093 imposition of sanctions and fines and the voiding of contracts or agreements;

1094 ~~(7)(6)~~ To promulgate rules and regulations establishing registration for any private  
 1095 corporation, private enterprise, private agency, county, municipality, or consolidated  
 1096 government providing probation services under the provisions of this article, subject to  
 1097 the provisions of Code Section ~~42-8-107~~ 42-8-109.3;

1098 ~~(8)(7)~~ To produce an annual summary report. ~~Such report shall not contain information~~  
 1099 ~~identifying individual private corporations, nonprofit corporations, or enterprises or their~~  
 1100 ~~contracts; and~~

1101 ~~(9)(8)~~ To promulgate rules and regulations requiring criminal record checks of  
 1102 individuals seeking to become private probation officers ~~registered under this Code~~  
 1103 ~~section~~ and establishing procedures for such criminal record checks. The ~~Administrative~~  
 1104 ~~Office of the Courts~~ Department of Community Supervision on behalf of the ~~council~~  
 1105 board shall conduct a criminal records check for individuals seeking to become probation

1106 officers as provided in Code Section 35-3-34. ~~No applicant shall be registered who has~~  
 1107 ~~previously been convicted of a felony.~~ The council board shall promulgate rules and  
 1108 regulations ~~regarding registration requirements, including relating to~~ restrictions  
 1109 regarding misdemeanor convictions. An agency or private entity shall also be authorized  
 1110 to conduct a criminal history background check of a person employed as a probation  
 1111 officer or ~~an applicant for a probation officer position private probation officer or~~  
 1112 individuals seeking such positions. The criminal history check may be conducted in  
 1113 accordance with Code Section 35-3-34 and may be based upon the submission of  
 1114 fingerprints of the ~~person~~ individual whose records are requested. The Georgia Bureau  
 1115 of Investigation shall submit the fingerprints to the Federal Bureau of Investigation under  
 1116 the rules established by the United States Department of Justice for processing and  
 1117 identification of records. The federal record, if any, shall be obtained and returned to the  
 1118 requesting entity or agency.;

1119 (9) To consult with and seek input with respect to the provisions of this article from an  
 1120 advisory council composed of one state court judge designated by The Council of State  
 1121 Court Judges of Georgia, one municipal court judge designated by the Council of  
 1122 Municipal Court Judges of Georgia, one probate court judge designated by The Council  
 1123 of Probate Court Judges of Georgia, one magistrate designated by the Council of  
 1124 Magistrate Court Judges, one attorney who specializes in criminal defense appointed by  
 1125 the Governor, one probation officer appointed by the Governor, and one private probation  
 1126 officer or individual with expertise in private probation services by virtue of his or her  
 1127 training or employment appointed by the Governor. The appointing authority shall  
 1128 determine the length of its appointee's term serving on such council. The advisory  
 1129 council shall elect a chairperson from among its membership and such other officers as  
 1130 it deems necessary;

1131 (10) To create committees from among the membership of the board as well as appoint  
 1132 other persons to serve in an advisory capacity to the board in implementing this article;  
 1133 and

1134 (11) To promulgate rules and regulations requiring probation officers and private  
 1135 probation officers to be registered with the board, pay a fee for such registration, and  
 1136 provide for the imposition of sanctions and fines on such officers for misconduct.

1137 ~~42-8-102.~~ 42-8-107.

1138 (a) The uniform professional standards contained in this subsection shall be met by any  
 1139 person employed as and using the title of a private probation officer or probation officer.  
 1140 Any such person shall be at least 21 years of age at the time of appointment to the position  
 1141 of private probation officer or probation officer and ~~must~~ shall have completed a standard

1142 two-year college course or have four years of law enforcement experience; provided,  
 1143 however, that any person employed as a private probation officer as of July 1, 1996, and  
 1144 who had at least six months of experience as a private probation officer or any person  
 1145 employed as a probation officer by a county, municipality, or consolidated government as  
 1146 of March 1, 2006, shall be exempt from such college requirements. Every private  
 1147 probation officer shall receive an initial 40 hours of orientation upon employment and shall  
 1148 receive 20 hours of continuing education per annum as approved by the ~~council~~ board,  
 1149 provided that the 40 hour initial orientation shall not be required of any person who has  
 1150 successfully completed a ~~probation or parole officer~~ basic course of training for supervision  
 1151 of probationers or parolees certified by the Peace Officer Standards and Training Council  
 1152 or any private probation officer who has been employed by a private probation corporation,  
 1153 enterprise, or agency for at least six months as of July 1, 1996, or any person employed as  
 1154 a probation officer by a county, municipality, or consolidated government as of March 1,  
 1155 2006. In no event shall any person convicted of a felony be employed as a probation  
 1156 officer or ~~utilize the title of~~ private probation officer.

1157 (b) The uniform contract standards contained in this subsection shall apply to all private  
 1158 probation contracts executed under the authority of Code Section ~~42-8-100~~ 42-8-101. The  
 1159 terms of any such contract shall state, at a minimum:

- 1160 (1) The extent of the services to be rendered by the private corporation or enterprise  
 1161 providing probation supervision;
- 1162 (2) Any requirements for staff qualifications, ~~to include~~ including those contained in this  
 1163 Code section as well as any surpassing those contained in this Code section;
- 1164 (3) Requirements for criminal record checks of staff in accordance with the rules and  
 1165 regulations established by the ~~council~~ board;
- 1166 (4) Policies and procedures for the training of staff that comply with rules and  
 1167 regulations promulgated by the ~~council~~ board;
- 1168 (5) Bonding of staff and liability insurance coverage;
- 1169 (6) Staffing levels and standards for offender supervision, including frequency and type  
 1170 of contacts with offenders;
- 1171 (7) Procedures for handling the collection of all court ordered fines, fees, and restitution;
- 1172 (8) Procedures for handling indigent offenders to ensure placement of such indigent  
 1173 offenders irrespective of the ability to pay;
- 1174 (9) Circumstances under which revocation of an offender's probation may be  
 1175 recommended;
- 1176 (10) Reporting and record-keeping requirements; and
- 1177 (11) Default and contract termination procedures.

1178 (c) The uniform contract standards contained in this subsection shall apply to all counties,  
 1179 municipalities, and consolidated governments that enter into agreements with a judge to  
 1180 provide probation services under the authority of Code Section ~~42-8-100~~ 42-8-101. The  
 1181 terms of any such agreement shall state at a minimum:

1182 (1) The extent of the services to be rendered by the local governing authority providing  
 1183 probation services;

1184 (2) Any requirements for staff qualifications, ~~to include~~ including those contained in this  
 1185 Code section;

1186 (3) Requirements for criminal record checks of staff in compliance with the rules and  
 1187 regulations established by the ~~council~~ board;

1188 (4) Policies and procedures for the training of staff that comply with the rules and  
 1189 regulations established by the ~~council~~ board;

1190 (5) Staffing levels and standards for offender supervision, including frequency and type  
 1191 of contacts with offenders;

1192 (6) Procedures for handling the collection of all court ordered fines, fees, and restitution;

1193 (7) Circumstances under which revocation of an offender's probation may be  
 1194 recommended;

1195 (8) Reporting and record-keeping requirements; and

1196 (9) Default and agreement termination procedures.

1197 (d) The ~~council~~ board shall review the uniform professional standards and uniform  
 1198 contract and agreement standards contained in ~~subsections (a), (b), and (c)~~ of this Code  
 1199 section and shall submit a report on its findings to the General Assembly. The ~~council~~  
 1200 board shall submit its initial report on or before January 1, ~~2007~~ 2017, and shall continue  
 1201 such reviews every two years thereafter. Nothing contained in such report shall be  
 1202 considered to authorize or require a change in ~~the~~ such standards without action by the  
 1203 General Assembly having the force and effect of law. Such ~~This~~ report shall provide  
 1204 information which will allow the General Assembly to review the effectiveness of the  
 1205 minimum professional standards and, if necessary, to revise ~~these~~ such standards. This  
 1206 subsection shall not be interpreted to prevent the ~~council~~ board from making  
 1207 recommendations to the General Assembly prior to its required review and report.

1208 ~~42-8-103:~~ 42-8-108.

1209 (a) Any private corporation, private enterprise, or private agency contracting to provide  
 1210 probation services or any county, municipality or consolidated government entering into  
 1211 an agreement under the provisions of this article shall provide to the judge with whom the  
 1212 contract or agreement was made and the ~~council~~ board a quarterly report summarizing the  
 1213 number of offenders under supervision; the amount of fines, statutory surcharges, and

1214 restitution collected; the amount of fees collected and the nature of such fees, including  
 1215 probation supervision fees, rehabilitation programming fees, electronic monitoring fees,  
 1216 drug or alcohol detection device fees, substance abuse or mental health evaluation or  
 1217 treatment fees, and drug testing fees; the number of community service hours performed  
 1218 by probationers under supervision; a listing of any other service for which a probationer  
 1219 was required to pay to attend; the number of offenders for whom supervision or  
 1220 rehabilitation has been terminated and the reason for the termination; and the number of  
 1221 warrants issued during the quarter, in such detail as the ~~council~~ board may require.  
 1222 Information reported pursuant to this subsection shall be annually submitted to the  
 1223 governing authority that entered into such contract and thereafter be subject to disclosure  
 1224 pursuant to Article 4 of Chapter 18 of Title 50. Local governments are encouraged to post  
 1225 electronic copies of the annual report on the local government's website, if such website  
 1226 exists.

1227 (b) All records of any private corporation, private enterprise, or private agency contracting  
 1228 to provide services or of any county, municipality, or consolidated government entering  
 1229 into an agreement under the provisions of this article shall be open to inspection upon the  
 1230 request of the affected county, municipality, consolidated government, court, the  
 1231 Department of Audits and Accounts, an auditor appointed by the affected county,  
 1232 municipality, or consolidated government, Department of Corrections, Department of  
 1233 Community Supervision, State Board of Pardons and Paroles, or the ~~council~~ or its designee  
 1234 board.

1235 ~~42-8-104.~~ 42-8-109.

1236 (a) No private corporation, private enterprise, or private agency contracting to provide  
 1237 probation services under the provisions of this article nor any employees of such entities  
 1238 shall engage in any other employment, business, or activity which interferes or conflicts  
 1239 with the duties and responsibilities under contracts authorized in this article.

1240 (b) No private corporation, private enterprise, or private agency contracting to provide  
 1241 probation services under the provisions of this article nor its employees shall have personal  
 1242 or business dealings, including the lending of money, with probationers under their  
 1243 supervision.

1244 (c)(1) No private corporation, private enterprise, or private agency contracting to provide  
 1245 probation services under the provisions of this article nor any employees of such entities,  
 1246 shall own, operate, have any financial interest in, be an instructor at, or be employed by  
 1247 any private entity which provides drug or alcohol education services or offers a DUI  
 1248 Alcohol or Drug Use Risk Reduction Program certified by the Department of Driver  
 1249 Services.

1250 (2) No private corporation, private enterprise, or private agency contracting to provide  
 1251 probation services under the provisions of this article nor any employees of such entities  
 1252 shall specify, directly or indirectly, a particular DUI Alcohol or Drug Use Risk Reduction  
 1253 Program which a probationer may or shall attend. This paragraph shall not prohibit  
 1254 furnishing any probationer, upon request, with the names of certified DUI Alcohol or  
 1255 Drug Use Risk Reduction Programs. Any person violating this paragraph shall be guilty  
 1256 of a misdemeanor.

1257 ~~42-8-105.~~ 42-8-109.1.

1258 (a) No county, municipality, or consolidated government ~~probation officer or other~~  
 1259 probation office employee shall engage in any other employment, business, or activity  
 1260 which interferes or conflicts with the ~~officer's or employee's~~ duties and responsibilities  
 1261 under agreements authorized in this article.

1262 (b) No county, municipality, or consolidated government ~~probation officer or other~~  
 1263 probation office employee shall have personal or business dealings, including the lending  
 1264 of money, with probationers under the supervision of such probation office.

1265 (c)(1) No county, municipality, or consolidated government ~~probation officer or other~~  
 1266 probation office employee shall own, operate, have any financial interest in, be an  
 1267 instructor at, or be employed by any private entity which provides drug or alcohol  
 1268 education services or offers a DUI Alcohol or Drug Use Risk Reduction Program  
 1269 certified by the Department of Driver Services.

1270 (2) No county, municipality, or consolidated government that provides probation  
 1271 services through agreement under the provisions of this article nor any employees of such  
 1272 shall specify, directly or indirectly, a particular DUI Alcohol or Drug Use Risk Reduction  
 1273 Program which a probationer may or shall attend. This paragraph shall not prohibit  
 1274 furnishing any probationer, upon request, with the names of certified DUI Alcohol or  
 1275 Drug Use Risk Reduction Programs. Any person violating this paragraph shall be guilty  
 1276 of a misdemeanor.

1277 ~~42-8-106.~~ 42-8-109.2.

1278 (a) Except as provided in subsection (a) of Code Section 42-8-108 and subsection (b) of  
 1279 this Code section, all AH reports, files, records, and papers of whatever kind relative to the  
 1280 supervision of probationers by a private corporation, private enterprise, or private agency  
 1281 contracting under the provisions of this article or by a county, municipality, or consolidated  
 1282 government providing probation services under this article are declared to be confidential  
 1283 and shall be available only to the affected county, municipality, or consolidated  
 1284 government, or an auditor appointed by such county, municipality, or consolidated

1285 government, the judge handling a particular case, the Department of Audits and Accounts,  
 1286 Department of Corrections, Department of Community Supervision, State Board of  
 1287 Pardons and Paroles, or the council or its designee board.

1288 (b)(1) Any probationer under supervision under this article shall:

1289 (A) Be provided with a written receipt each time he or she makes a payment as well  
 1290 as a balance statement; and

1291 (B) Be permitted, upon written request, to have a copy of his or her own probation file,  
 1292 including supervision case notes, correspondence, payment records, and reporting  
 1293 history, one time, and thereafter, he or she shall be required to pay a fee as set by the  
 1294 board; provided, however, that the board shall promulgate rules and regulations  
 1295 clarifying what confidential information may be withheld from such disclosure.

1296 (2) When a probationer claims that information is being improperly withheld from his  
 1297 or her file, the probationer may file a motion with the sentencing court seeking an in  
 1298 camera inspection of such file. The probationer shall serve such motion on the  
 1299 prosecuting attorney and probation officer or private probation officer as appropriate.

1300 (3) The following shall be subject to disclosure pursuant to Article 4 of Chapter 18 of  
 1301 Title 50:

1302 (A) The board's rules and regulations regarding contracts or agreements for the  
 1303 provision of probation services;

1304 (B) The board's rules and regulations regarding the conduct of business by private  
 1305 entities providing probation services as authorized by this article;

1306 (C) The board's rules and regulations regarding county, municipal, or consolidated  
 1307 governments establishing probation systems as authorized by this article; and

1308 (D) The rules, regulations, operating procedures, and guidelines of any private  
 1309 corporation, private enterprise, or private agency providing probation services under the  
 1310 provisions of this article.

1311 ~~(b)~~(c) In the event of a transfer of the supervision of a probationer from a private  
 1312 corporation, private enterprise, or private agency or county, municipality, or consolidated  
 1313 government providing probation services under this article to the Department of  
 1314 ~~Corrections~~ Community Supervision, the Department of ~~Corrections~~ Community  
 1315 Supervision shall have access to any relevant reports, files, records, and papers of the  
 1316 transferring entity. ~~All reports, files, records, and papers of whatever kind relative to the~~  
 1317 ~~supervision of probationers by private corporations, private enterprises, or private agencies~~  
 1318 ~~under contracts authorized by this article or by a county, municipality, or consolidated~~  
 1319 ~~government providing probation services under this article shall not be subject to process~~  
 1320 ~~of subpoena.~~

1321 ~~42-8-107.~~ 42-8-109.3.

1322 (a)(1) All private corporations, private enterprises, and private agencies contracting or  
 1323 offering to contract for probation services shall register with the ~~council~~ board before  
 1324 entering into any contract to provide services. Any private corporation, private  
 1325 enterprise, or private agency registered with the County and Municipal Probation  
 1326 Advisory Council on or before June 30, 2015, shall be deemed registered with the board;  
 1327 provided, however, that the board shall be authorized to review such contract and shall  
 1328 be responsible for subsequent renewals or changes to such contract. The information  
 1329 included in such registration shall include the name of the corporation, enterprise, or  
 1330 agency, its principal business address and telephone number, the name of its agent for  
 1331 communication, and other information in such detail as the ~~council~~ board may require.  
 1332 No registration fee shall be required.

1333 (2) Any private corporation, private enterprise, or private agency required to register  
 1334 under the provisions of paragraph (1) of this subsection which fails or refuses to do so  
 1335 shall be subject to revocation of any existing contracts, in addition to any other fines or  
 1336 sanctions imposed by the ~~council~~ board.

1337 (b)(1) All counties, municipalities, and consolidated governments agreeing or offering  
 1338 to agree to establish a probation system shall register with the ~~council~~ board before  
 1339 entering into an agreement with the court to provide services. The information included  
 1340 in such registration shall include the name of the county, municipality, or consolidated  
 1341 government, the principal business address and telephone number, a contact name for  
 1342 communication with the ~~council~~ board, and other information in such detail as the ~~council~~  
 1343 board may require. No registration fee shall be required.

1344 (2) Any county, municipality, or consolidated government required to register under the  
 1345 provisions of paragraph (1) of this subsection which fails or refuses to do so shall be  
 1346 subject to revocation of existing agreements, in addition to any other sanctions imposed  
 1347 by the ~~council~~ board.

1348 ~~42-8-108.~~ 42-8-109.4.

1349 (a) The probation providers standards contained in this Code section shall be met by  
 1350 private corporations, private enterprises, or private agencies ~~who~~ that enter into written  
 1351 contracts for probation services under the authority of Code Section ~~42-8-100 on or after~~  
 1352 ~~July 1, 2006~~ 42-8-101. Any private corporation, private enterprise, or private agency  
 1353 which fails to meet the standards established in this subsection ~~on or after July 1, 2006,~~  
 1354 shall not be eligible to provide probation services in this state. All private corporations,  
 1355 private enterprises, or private agencies ~~who~~ that enter into written contracts for probation

1356 services under the authority of Code Section ~~42-8-100 on or after July 1, 2006~~, 42-8-101  
 1357 shall:

1358 (1) Meet all requirements as outlined in subsection (b) of Code Section ~~42-8-102~~  
 1359 42-8-107, relating to uniform contract standards;

1360 (2) Not own or control any finance business or lending institution which makes loans to  
 1361 probationers under its supervision for the payment of probation fees or fines; and

1362 (3) Employ at least one person who is responsible for the direct supervision of private  
 1363 probation officers employed by the corporation, enterprise, or agency and who shall have  
 1364 at least five years' experience in corrections, parole, or probation services.

1365 (b) The standards contained in this subsection shall be met by all counties, municipalities,  
 1366 or consolidated governments entering into written agreements to provide probation services  
 1367 to any court under the authority of Code Section ~~42-8-100 on or after July 1, 2006~~  
 1368 42-8-101. Any county, municipality, or consolidated government which fails to meet the  
 1369 standards established in this subsection ~~on or after July 1, 2006~~, shall not be eligible to  
 1370 provide probation services. All counties, municipalities, or consolidated governments  
 1371 which enter into written agreements to provide probation services under the authority of  
 1372 Code Section ~~42-8-100 on or after July 1, 2006~~, 42-8-101 shall:

1373 (1) Register with the ~~council~~ board;

1374 (2) Meet the requirements of subsection (c) of Code Section ~~42-8-102~~ 42-8-107; and

1375 (3) Employ at least one person who is responsible for the direct supervision of probation  
 1376 officers ~~employed by the governing authority~~ and who shall have at least five years'  
 1377 experience in corrections, parole, or probation services; ~~provided, however, that the~~  
 1378 ~~five-year experience requirement shall not apply to any such supervisor employed by a~~  
 1379 ~~county, municipality, or consolidated government which was engaged in the provision~~  
 1380 ~~of probation services on April 15, 2006.~~

1381 42-8-109.5.

1382 Whenever a probationer is under supervision by a community supervision officer, as such  
 1383 term is defined in Code Section 42-3-1, and sentenced to probation, the court shall  
 1384 determine whether the continuing supervision shall be performed by a community  
 1385 supervision officer, private probation officer, or probation officer."

1386 **PART IV**  
 1387 **STATE-WIDE PROBATION SYSTEM**  
 1388 **SECTION 4-1.**

1389 Said title is further amended by revising Article 2 of Chapter 8, relating to the state-wide  
 1390 probation system, as follows:

1391 "ARTICLE 2

1392 42-8-20.

1393 This article shall be known and may be cited as the 'State-wide Probation Act.'

1394 42-8-21.

1395 ~~Reserved.~~

1396 As used in this article, the term:

1397 (1) 'DCS' means the Department of Community Supervision.

1398 (2) 'Officer' means a community supervision officer as defined in Code Section 42-3-1.

1399 42-8-22.

1400 There is created a state-wide probation system for felony offenders to be administered by  
 1401 ~~the Department of Corrections. The probation system shall not be administered as part of~~  
 1402 ~~the duties and activities of the State Board of Pardons and Paroles~~ DCS. Separate files and  
 1403 records shall be kept with relation to the system.

1404 42-8-23.

1405 (a) As used in this Code section, the term 'chief ~~probation~~ officer' means the highest  
 1406 ranking field ~~probation~~ officer in each judicial circuit who does not have direct supervision  
 1407 of the probationer who is the subject of the hearing.

1408 (b) DCS ~~The department~~ shall administer the supervision of felony probationers.

1409 (c) If graduated sanctions have been made a condition of probation by the court and if a  
 1410 probationer violates the conditions of his or her probation, other than for the commission  
 1411 of a new offense, ~~the department~~ DCS may impose graduated sanctions as an alternative  
 1412 to judicial modification or revocation of probation, provided that such graduated sanctions  
 1413 are approved by a chief ~~probation~~ officer.

1414 (d) The failure of a probationer to comply with the graduated sanction or sanctions  
 1415 imposed by ~~the department~~ DCS shall constitute a violation of probation.

1416 (e) A probationer may at any time voluntarily accept the graduated sanctions proposed by  
1417 ~~the department~~ DCS.

1418 (f)(1) DCS's ~~The department's~~ decision shall be final unless the probationer files an  
1419 appeal in the sentencing court. Such appeal shall be filed within 30 days of the issuance  
1420 of the decision by ~~the department~~ DCS.

1421 (2) Such appeal shall first be reviewed by the ~~judge~~ sentencing court upon the record.  
1422 At the ~~judge's~~ court's discretion, a de novo hearing may be held on the decision. The  
1423 filing of the appeal shall not stay ~~the department's~~ DCS's decision.

1424 (3) When the sentencing ~~judge~~ court does not act on the appeal within 30 days of the date  
1425 of the filing of the appeal, ~~the department's~~ DCS's decision shall be affirmed by operation  
1426 of law.

1427 (g) Nothing contained in this Code section shall alter the relationship between judges and  
1428 ~~probation supervisors~~ officers prescribed in this article nor be construed as repealing any  
1429 power given to any court of this state to place offenders on probation or to supervise  
1430 offenders.

1431 42-8-24.

1432 (a) As used in this Code section, the term 'split sentence' means any felony sentence that  
1433 includes a term of imprisonment followed by a term of probation.

1434 (b) It shall be the duty of ~~the department~~ DCS to supervise and direct the work of the  
1435 ~~probation supervisors~~ officers provided for in Code Section 42-8-25 and to keep accurate  
1436 files and records on all probation cases, split sentence cases, parole cases, persons released  
1437 pursuant to Code Section 17-10-1, and persons on probation under supervision. It shall be  
1438 the duty of the ~~board~~ Board of Community Supervision to promulgate rules and regulations  
1439 necessary to effectuate the purposes of this chapter.

1440 42-8-25.

1441 DCS ~~The department~~ shall employ ~~probation supervisors.~~ ~~The department~~ officers. DCS  
1442 may assign one ~~supervisor~~ officer to each judicial circuit in this state or, for purposes of  
1443 assignment, may consolidate two or more judicial circuits and assign one ~~supervisor~~ officer  
1444 thereto. In the event ~~the department~~ DCS determines that more than one ~~supervisor~~ officer  
1445 is needed for a particular circuit, ~~an additional supervisor or additional supervisors~~ officers  
1446 may be assigned to the circuit. DCS ~~The department~~ is authorized to direct any ~~probation~~  
1447 ~~supervisor~~ officer to assist any other ~~probation supervisor~~ officer wherever assigned. In  
1448 the event ~~that~~ more than one ~~supervisor~~ officer is assigned to the same office or to the same  
1449 division within a particular judicial circuit, ~~the department~~ DCS shall designate one of the  
1450 ~~supervisors~~ officers to be in charge.

1451 42-8-26.

1452 (a)(1) In order for a person to ~~hold the office of probation supervisor~~ be an officer, he or  
 1453 she ~~must~~ shall be at least 21 years of age at the time of appointment and ~~must~~ shall have  
 1454 completed a standard two-year college course; ~~provided that any person who is employed~~  
 1455 ~~as a probation supervisor on or before July 1, 1972, shall not be required to meet the~~  
 1456 ~~educational requirements specified in this Code section, nor shall he or she be prejudiced~~  
 1457 ~~in any way for not possessing the requirements.~~ The qualifications provided in this Code  
 1458 section are the minimum qualifications, and ~~the department~~ DCS is authorized to  
 1459 prescribe such additional and higher educational qualifications from time to time as it  
 1460 deems desirable, but not to exceed a four-year standard college course.

1461 (2) After January 1, 2016, in order for a person to be an officer, he or she shall complete  
 1462 the basic course of training for supervision of probations and parolees certified by the  
 1463 Peace Officer Standards and Training Council; provided, however, that such requirement  
 1464 shall be waived if such person is a certified peace officer.

1465 (b) The compensation of ~~the probation supervisors~~ officers shall be set pursuant to the  
 1466 rules of the State Personnel Board. Officers ~~Probation supervisors~~ shall also be allowed  
 1467 travel and other expenses as are other state employees.

1468 (c)(1) No ~~supervisor~~ officer shall engage in any other employment, business, or activities  
 1469 which interfere or conflict with his or her duties and responsibilities as ~~probation~~  
 1470 ~~supervisor~~ an officer.

1471 (2) No ~~supervisor~~ officer shall own, operate, have any financial interest in, be an  
 1472 instructor at, or be employed by any private entity which provides drug or alcohol  
 1473 education services or offers a DUI Alcohol or Drug Use Risk Reduction Program  
 1474 certified by the Department of Driver Services.

1475 (3) No ~~supervisor~~ officer shall specify, directly or indirectly, a particular DUI Alcohol  
 1476 or Drug Use Risk Reduction Program which a probationer may or shall attend. This  
 1477 paragraph shall not prohibit ~~any supervisor~~ such officer from furnishing any probationer,  
 1478 upon request, the names of certified DUI Alcohol or Drug Use Risk Reduction Programs.  
 1479 Any ~~supervisor~~ officer violating this paragraph shall be guilty of a misdemeanor.

1480 (d) Each ~~probation supervisor~~ officer shall give bond in such amount as may be fixed by  
 1481 ~~the department payable to the department~~ DCS for the use of the person or persons  
 1482 damaged by his or her misfeasance or malfeasance and conditioned on the faithful  
 1483 performance of his or her duties. The cost of the bond shall be paid by ~~the department~~  
 1484 DCS; provided, however, that the bond may be procured, either by ~~the department~~ DCS or  
 1485 by the Department of Administrative Services, under a master policy or on a group blanket  
 1486 coverage basis, where only the number of positions in each judicial circuit and the amount  
 1487 of coverage for each position are listed in a schedule attached to the bond; and in such case

1488 each individual shall be fully bonded and bound as principal, together with the surety, by  
 1489 virtue of his or her holding the position or performing the duties of ~~probation supervisor~~  
 1490 officer in the circuit or circuits, and his or her individual signature shall not be necessary  
 1491 for such bond to be valid in accordance with all the laws of this state. The bond or bonds  
 1492 shall be made payable to ~~the department~~ DCS.

1493 42-8-27.

1494 An officer ~~The probation supervisor~~ shall supervise and counsel probationers and parolees  
 1495 in the judicial circuit to which he or she is assigned. Each ~~supervisor~~ officer shall perform  
 1496 the duties prescribed in this chapter and ~~such~~ other duties as are prescribed by ~~the~~  
 1497 ~~department~~ DCS and shall make and keep such any records and files and make such reports  
 1498 as are required of him or her by DCS, the State Board of Pardons and Paroles, or a court.

1499 42-8-28.

1500 Officers ~~Probation supervisors~~ shall be assigned among the respective judicial circuits  
 1501 based generally on the relative number of persons on probation and parole in each circuit.

1502 42-8-29.

1503 (a) It shall be the duty of the ~~probation supervisor~~ each officer to investigate all cases  
 1504 referred to him or her by the court and to make ~~his~~ findings and report thereon in writing  
 1505 to the court with ~~his~~ a recommendation. The superior court may require, before imposition  
 1506 of sentence, a presentence investigation and written report in each felony case in which the  
 1507 defendant has entered a plea of guilty or nolo contendere or has been convicted.

1508 (b) An officer ~~The probation supervisor~~ shall cause to be delivered to each person placed  
 1509 on probation under his or her supervision a ~~certified~~ copy of the terms of probation and any  
 1510 change or modification thereof and shall cause the person to be instructed regarding the  
 1511 same. An officer ~~He~~ shall keep informed concerning the conduct, habits, associates,  
 1512 employment, recreation, and whereabouts of the probationer or parolee by visits, by  
 1513 requiring reports, or in other ways. ~~He shall make such reports in writing or otherwise as~~  
 1514 ~~the court may require.~~ He An officer shall use all practicable and proper methods to aid  
 1515 and encourage persons on probation or parole and to bring about improvements in their  
 1516 conduct and condition. ~~He shall keep records on each probationer referred to him.~~

1517 42-8-29.1.

1518 (a) When a convicted person is committed to an institution under the jurisdiction of the  
 1519 ~~department~~ Department of Corrections, any presentence or post-sentence investigation or  
 1520 psychological evaluation compiled by a ~~probation supervisor or other probation official~~ an

1521 officer shall be forwarded to any division or office designated by the commissioner of of  
 1522 corrections. Accompanying ~~this~~ such document or evaluation ~~will~~ shall be the case history  
 1523 form and the criminal history sheets from the Federal Bureau of Investigation or the  
 1524 Georgia Crime Information Center, if available, unless any such information has previously  
 1525 been sent to the ~~department~~ Department of Corrections pursuant to Code Section 42-5-50.  
 1526 A copy of ~~these same~~ such documents shall be made available for the State Board of  
 1527 Pardons and Paroles. A copy of one or more of ~~these~~ such documents, based on need, may  
 1528 be forwarded to another institution to which the defendant may be committed.

1529 (b) The prison or institution receiving ~~these~~ such documents shall maintain the  
 1530 confidentiality of the documents and the information contained therein and shall not send  
 1531 ~~them or release them,~~ release, or reveal them to any other person, institution, or agency  
 1532 without the express consent of the probation unit which originated or accumulated the  
 1533 documents.

1534 42-8-30.

1535 ~~In the counties where no juvenile probation system exists, juvenile offenders, upon~~  
 1536 ~~direction of the court, shall be supervised by probation supervisors. Other than in this~~  
 1537 ~~respect, nothing in this article shall be construed to change or modify any law relative to~~  
 1538 ~~probation as administered by any juvenile court in this state.~~

1539 ~~42-8-30.1:~~

1540 In any county where the chief judge of the superior court, state court, municipal court,  
 1541 probate court, or magistrate court has provided for probation services for such court  
 1542 through agreement with a private corporation, enterprise, or agency or has established a  
 1543 county or municipal probation system for such court pursuant to ~~Code Section 42-8-100~~  
 1544 Article 6 of this chapter, the provisions of this article relating to probation supervision  
 1545 services shall not apply to defendants sentenced in any such court.

1546 42-8-31.

1547 No ~~probation supervisor~~ officer shall collect or disburse any funds whatsoever, except by  
 1548 written order of the court; and it shall be the duty of the supervisor officer to transmit a  
 1549 copy of ~~the~~ such order to ~~the department~~ DCS not later than 15 days after it has been issued  
 1550 by the court. Every supervisor officer who collects or disburses any funds whatsoever shall  
 1551 faithfully keep the records of accounts as are required by ~~the department~~ DCS, which  
 1552 records shall be subject to inspection by ~~the department~~ DCS at any time. In every instance  
 1553 ~~where~~ when a bank account is required, it shall be kept in the name of the 'State Probation  
 1554 Office.' Department of Community Supervision.

1555 42-8-32.

1556 No ~~probation supervisor~~ officer shall be directed to collect any funds other than funds  
1557 directed to be paid as the result of a criminal proceeding.

1558 42-8-33.

1559 (a) DCS ~~The department~~ shall make periodic audits of each ~~probation supervisor~~ officer  
1560 who, by virtue of ~~his~~ the officer's duties, has any moneys, fines, court costs, property, or  
1561 other funds coming into ~~his~~ the officer's control or possession or being disbursed by ~~him~~.  
1562 ~~The department~~ such officer. DCS shall keep a permanent record of the audit of each  
1563 ~~probation supervisor's~~ officer's accounts on file. It shall be the duty of the employee of ~~the~~  
1564 ~~department~~ DCS conducting the audit to notify ~~the department~~ DCS in writing of any  
1565 discrepancy of an illegal nature that might result in prosecution. DCS ~~The department~~ shall  
1566 have the right to interview and make inquiry of certain selected payors or recipients of  
1567 funds, as it may choose, without notifying the ~~probation supervisor~~ officer, to carry out the  
1568 purposes of the audit. The employee who conducts the audit shall be required to give bond  
1569 in such amount as may be set by ~~the department~~ DCS, in the same manner and for the same  
1570 purposes as provided under Code Section 42-8-26 for the bonds of ~~probation supervisors~~  
1571 officers. The bond shall bind the employee and ~~his~~ the employee's surety in the  
1572 performance of ~~his~~ the employee's duties.

1573 (b) Any overpayment of fines, restitutions, or other moneys owed as a condition of  
1574 probation shall not be refunded to the probationer if the amount of ~~such~~ the overpayment  
1575 is less than \$5.00.

1576 42-8-34.

1577 (a) Any court of this state which has original jurisdiction of criminal actions, except  
1578 ~~juvenile courts~~, municipal courts; and probate courts, in which the defendant in a criminal  
1579 case has been found guilty upon verdict or plea or has been sentenced upon a plea of nolo  
1580 contendere, except for an offense punishable by death or life imprisonment, may, at a time  
1581 to be determined by the court, hear and determine the question of the probation of such  
1582 defendant.

1583 (b) Prior to the sentencing hearing, the court may refer the case to ~~the probation supervisor~~  
1584 an officer of the circuit in which the court is located for investigation and recommendation.  
1585 The court, upon such reference, shall direct ~~the supervisor~~ an officer to make an  
1586 investigation and to report to the court, in writing at a specified time, upon the  
1587 circumstances of the offense and the criminal record, social history, and present condition  
1588 of the defendant, together with the ~~supervisor's~~ officer's recommendation; and it shall be  
1589 the duty of ~~the supervisor~~ such officer to carry out the directive of the court.

1590 (c) Subject to the provisions of subsection (a) of Code Section 17-10-1 and subsection (f)  
1591 of Code Section 17-10-3, if it appears to the court upon a hearing of the matter that the  
1592 defendant is not likely to engage in a criminal course of conduct and that the ends of justice  
1593 and the welfare of society do not require that the defendant shall presently suffer the  
1594 penalty imposed by law, the court in its discretion shall impose sentence upon the  
1595 defendant but may stay and suspend the execution of the sentence or any portion thereof  
1596 or may place him or her on probation under the supervision and control of the ~~probation~~  
1597 ~~supervisor officer~~ for the duration of ~~such probation~~ the sentence. The period of probation  
1598 or suspension shall not exceed the maximum sentence of confinement which could be  
1599 imposed on the defendant.

1600 (d)(1) In every case that a court of this state or any other state sentences a defendant to  
1601 probation or any pretrial release or diversion program under the supervision of ~~the~~  
1602 ~~department~~ DCS, in addition to any fine or order of restitution imposed by the court, there  
1603 shall be imposed a probation fee as a condition of probation, release, or diversion in the  
1604 amount equivalent to \$23.00 per each month under supervision, and in addition, a  
1605 one-time fee of \$50.00 ~~where~~ if such defendant was convicted of any felony. The  
1606 probation fee may be waived or amended after administrative process by ~~the department~~  
1607 DCS and approval of the court, or upon determination by the court, as to the undue  
1608 hardship, inability to pay, or any other extenuating factors which prohibit collection of  
1609 the fee; provided, however, that the imposition of sanctions for failure to pay fees shall  
1610 be within the discretion of the court through judicial process or hearings. Probation fees  
1611 shall be waived on probationers incarcerated or detained in a ~~departmental~~ Department  
1612 of Corrections or other confinement facility which prohibits employment for wages. All  
1613 probation fees collected by ~~the department~~ DCS shall be paid into the general fund of the  
1614 state treasury, except as provided in subsection (f) of Code Section 17-15-13, relating to  
1615 sums to be paid into the Georgia Crime Victims Emergency Fund. Any fees collected by  
1616 the court under this paragraph shall be remitted not later than the last day of the month  
1617 after such fee is collected to the Georgia Superior Court Clerks' Cooperative Authority  
1618 for deposit into the general fund of the state treasury.

1619 (2) In addition to any other provision of law, any person convicted of a violation of Code  
1620 Section 40-6-391 or subsection (b) of Code Section 16-13-2 who is sentenced to  
1621 probation or a suspended sentence by a municipal, magistrate, probate, recorder's,  
1622 mayor's, state, or superior court shall also be required by the court to pay a one-time fee  
1623 of \$25.00. The clerk of court, or if there is no clerk the person designated to collect fines,  
1624 fees, and forfeitures for such court, shall collect such fee and remit the same not later than  
1625 the last day of the month after such fee is collected to the Georgia Superior Court Clerks'  
1626 Cooperative Authority for deposit into the general fund of the state treasury.

1627 (3) In addition to any fine, fee, restitution, or other amount ordered, the sentencing court  
 1628 may also impose as a condition of probation for felony criminal defendants sentenced to  
 1629 a day reporting center an additional charge, not to exceed \$10.00 per day for each day  
 1630 such defendant is required to report to a day reporting center; provided, however, that no  
 1631 fee shall be imposed or collected if the defendant is unemployed or has been found  
 1632 indigent by the sentencing court. The charges required by this paragraph shall be paid  
 1633 by the probationer directly to ~~the department~~ DCS. Funds collected by ~~the department~~  
 1634 DCS pursuant to this subsection shall only be used by ~~the department~~ DCS in the  
 1635 maintenance and operation of the day reporting center program.

1636 (e) The court may, in its discretion, require the payment of a fine or costs, or both, as a  
 1637 condition precedent to probation.

1638 (f) During the interval between the conviction or plea and the hearing to determine the  
 1639 question of probation, the court may, in its discretion, either order the confinement of the  
 1640 defendant without bond or may permit his or her release on bond, which bond shall be  
 1641 conditioned on his appearance at the hearing and shall be subject to the same rules as  
 1642 govern appearance bonds. Any time served in confinement shall be considered a part of  
 1643 the sentence of the defendant.

1644 (g) The sentencing judge shall not lose jurisdiction over any person placed on probation  
 1645 during the term of the person's probated sentence. The judge is empowered to revoke any  
 1646 or all of the probated sentence, rescind any or all of the sentence, or, in any manner deemed  
 1647 advisable by the judge, modify or change the probated sentence, including ordering the  
 1648 probationer into the sentencing options system, as provided in Article ~~9 of this chapter~~ 6  
 1649 of Chapter 3 of this title, at any time during the period of time prescribed for the probated  
 1650 sentence to run. In addition, when the judge is considering revoking a probated sentence  
 1651 in order to require the defendant to enter a drug court division, mental health court division,  
 1652 or veterans court division and the length of the original sentence is insufficient to authorize  
 1653 such revocation, the defendant may voluntarily agree to an extension of his or her original  
 1654 sentence within the maximum sentence allowed by law, notwithstanding subsection (f) of  
 1655 Code Section 17-10-1. Such extension shall be for a period not to exceed three years, and  
 1656 upon completion of such specific court division program, the court may modify the terms  
 1657 of probation in accordance with subparagraph (a)(5)(A) of Code Section 17-10-1.

1658 (h) ~~If Notwithstanding any provision of this Code or any rule or regulation to the contrary,~~  
 1659 if a defendant is placed on probation in a county of a judicial circuit other than the one in  
 1660 which ~~he~~ such defendant resides for committing any misdemeanor offense, such defendant  
 1661 may, when specifically ordered by the court, have ~~his~~ probation supervision transferred to  
 1662 the judicial circuit of the county in which ~~he~~ the defendant resides.

1663 42-8-34.1.

1664 (a) For the purposes of this Code section, the term 'special condition of probation or  
1665 suspension of the sentence' means a condition of a probated or suspended sentence which:

1666 (1) Is expressly imposed as part of the sentence in addition to general conditions of  
1667 probation and court ordered fines and fees; and

1668 (2) Is identified in writing in the sentence as a condition the violation of which authorizes  
1669 the court to revoke the probation or suspension and require the defendant to serve up to  
1670 the balance of the sentence in confinement.

1671 (b) A court may not revoke any part of any probated or suspended sentence unless the  
1672 defendant admits the violation as alleged or unless the evidence produced at the revocation  
1673 hearing establishes by a preponderance of the evidence the violation or violations alleged.

1674 (c) At any revocation hearing, upon proof that the defendant has violated any general  
1675 provision of probation or suspension other than by commission of a new felony offense,  
1676 the court shall consider the use of alternatives to include community service, intensive  
1677 probation, diversion centers, probation detention centers, special alternative incarceration,  
1678 or any other alternative to confinement deemed appropriate by the court or as provided by  
1679 the state or county. In the event the court determines that the defendant does not meet the  
1680 criteria for ~~said~~ such alternatives, the court may revoke the balance of probation or not  
1681 more than two years in confinement, whichever is less.

1682 (d) If the violation of probation or suspension alleged and proven by a preponderance of  
1683 the evidence or the defendant's admission is the commission of a felony offense, the court  
1684 may revoke no more than the lesser of the balance of probation or the maximum time of  
1685 the sentence authorized to be imposed for the felony offense constituting the violation of  
1686 the probation. For purposes of this Code section, the term 'felony offense' means:

1687 (1) A felony offense;

1688 (2) A misdemeanor offense committed in another state on or after July 1, 2010, the  
1689 elements of which are proven by a preponderance of evidence showing that such offense  
1690 would constitute a felony if the act had been committed in this state; or

1691 (3) A misdemeanor offense committed in another state on or after July 1, 2010, that is  
1692 admitted to by the defendant who also admits that such offense would be a felony if the  
1693 act had been committed in this state.

1694 (e) If the violation of probation or suspension alleged and proven by a preponderance of  
1695 the evidence or the defendant's admission is the violation of a special condition of  
1696 probation or suspension of the sentence, the court may revoke the probation or suspension  
1697 of the sentence and require the defendant to serve the balance or portion of the balance of  
1698 the original sentence in confinement.

1699 (f) The payment of restitution or reparation, costs, or fines ordered by the court may be  
 1700 payable in one lump sum or in periodic payments, as determined by the court after  
 1701 consideration of all the facts and circumstances of the case and of the defendant's ability  
 1702 to pay. Such payments shall, in the discretion of the sentencing judge, be made either to  
 1703 the clerk of the sentencing court or, if the sentencing court is a probate court, state court,  
 1704 or superior court, to the ~~probation~~ DCS office serving ~~said~~ such court.

1705 (g) In no event shall an offender be supervised on probation for more than a total of two  
 1706 years for any one offense or series of offenses arising out of the same transaction, whether  
 1707 before or after confinement, except as provided by paragraph (2) of subsection (a) of Code  
 1708 Section 17-10-1 and subsection (g) of Code Section 42-8-34.

1709 42-8-34.2.

1710 (a) In the event that a defendant is delinquent in the payment of fines, costs, or restitution  
 1711 or reparation, as was ordered by the court as a condition of probation, the defendant's  
 1712 ~~probation~~ officer is shall be authorized, but shall not be required, to execute a sworn  
 1713 affidavit wherein the amount of arrearage is set out. In addition, the affidavit shall contain  
 1714 a succinct statement as to what efforts ~~the department~~ DCS has made in trying to collect  
 1715 the delinquent amount. The affidavit shall then be submitted to the sentencing court for  
 1716 approval. Upon signature and approval of the court, ~~said~~ such arrearage shall then be  
 1717 collectable through issuance of a writ of fieri facias by the clerk of the sentencing court;  
 1718 and ~~the department~~ DCS may enforce such collection through any judicial or other process  
 1719 or procedure which may be used by the holder of a writ of execution arising from a civil  
 1720 action.

1721 (b) This Code section provides the state with remedies in addition to all other remedies  
 1722 provided for by law; and nothing in this Code section shall preclude the use of any other  
 1723 or additional remedy in any case.

1724 (c) No clerk of any court shall be authorized to require any deposit of cost or any other  
 1725 filing or service fee as a condition to the filing of a garnishment action or other action or  
 1726 proceeding authorized under this Code section. In any such action or proceeding, however,  
 1727 the clerk of the court in which the action is filed shall deduct and retain all proper court  
 1728 costs from any funds paid into the treasury of the court, prior to any other disbursement of  
 1729 such funds so paid into court.

1730 42-8-35.

1731 (a) The court shall determine the terms and conditions of probation and may provide that  
 1732 the probationer shall:

1733 (1) Avoid injurious and vicious habits;

- 1734 (2) Avoid persons or places of disreputable or harmful character;
- 1735 (3) Report to the ~~probation supervisor~~ officer as directed;
- 1736 (4) Permit the ~~supervisor~~ officer to visit the probationer at the probationer's home or  
1737 elsewhere;
- 1738 (5) Work faithfully at suitable employment insofar as may be possible;
- 1739 (6) Remain within a specified location; provided, however, that the court shall not banish  
1740 a probationer to any area within ~~the~~ this state:
- 1741 (A) That does not consist of at least one entire judicial circuit as described by Code  
1742 Section 15-6-1; or
- 1743 (B) In which any service or program in which the probationer must participate as a  
1744 condition of probation is not available;
- 1745 (7) Make reparation or restitution to any aggrieved person for the damage or loss caused  
1746 by the probationer's offense, in an amount to be determined by the court. Unless  
1747 otherwise provided by law, no reparation or restitution to any aggrieved person for the  
1748 damage or loss caused by the probationer's offense shall be made if the amount is in  
1749 dispute unless the same has been adjudicated;
- 1750 (8) Make reparation or restitution as reimbursement to a municipality or county for the  
1751 payment for medical care furnished the person while incarcerated pursuant to the  
1752 provisions of Article 3 of Chapter 4 of this title. No reparation or restitution to a local  
1753 governmental unit for the provision of medical care shall be made if the amount is in  
1754 dispute unless the same has been adjudicated;
- 1755 (9) Repay the costs incurred by any municipality or county for wrongful actions by an  
1756 inmate covered under the provisions of paragraph (1) of subsection (a) of Code Section  
1757 42-4-71;
- 1758 (10) Support the probationer's legal dependents to the best of the probationer's ability;
- 1759 (11) Violate no local, state, or federal laws and be of general good behavior;
- 1760 (12) If permitted to move or travel to another state, agree to waive extradition from any  
1761 jurisdiction where the probationer may be found and not contest any effort by any  
1762 jurisdiction to return the probationer to this state;
- 1763 (13) Submit to evaluations and testing relating to rehabilitation and participate in and  
1764 successfully complete rehabilitative programming as directed by ~~the department~~ DCS;
- 1765 (14) Wear a device capable of tracking the location of the probationer by means  
1766 including electronic surveillance or global positioning satellite systems. DCS ~~The~~  
1767 ~~department~~ shall assess and collect fees from the probationer for such monitoring at  
1768 levels set by regulation ~~by the department~~ of the Board of Community Supervision;
- 1769 (15) Complete a residential or nonresidential program for substance abuse or mental  
1770 health treatment as indicated by a risk and needs assessment;

1771 (16) Agree to the imposition of graduated sanctions when, in the discretion of the  
 1772 ~~probation supervisor~~ officer, the probationer's behavior warrants a graduated sanction;  
 1773 and

1774 (17) Pay for the cost of drug screening. ~~DCS The Department of Corrections~~ shall assess  
 1775 and collect fees from the probationer for such screening at levels set by regulation of the  
 1776 ~~Department of Corrections~~ Board of Community Supervision.

1777 (b) In determining the terms and conditions of probation for a probationer who has been  
 1778 convicted of a criminal offense against a victim who is a minor or dangerous sexual offense  
 1779 as those terms are defined in Code Section 42-1-12, the court may provide that the  
 1780 probationer shall be:

1781 (1) Prohibited from entering or remaining present at a victim's school, place of  
 1782 employment, place of residence, or other specified place at times when a victim is present  
 1783 or from loitering in areas where minors congregate, child care facilities, churches, or  
 1784 schools as those terms are defined in Code Section 42-1-12;

1785 (2) Required, either in person or through remote monitoring, to allow viewing and  
 1786 recording of the probationer's incoming and outgoing e-mail, history of websites visited  
 1787 and content accessed, and other Internet based communication;

1788 (3) Required to have periodic unannounced inspections of the contents of the  
 1789 probationer's computer or any other device with Internet access, including the retrieval  
 1790 and copying of all data from the computer or device and any internal or external storage  
 1791 or portable media and the removal of such information, computer, device, or medium;  
 1792 and

1793 (4) Prohibited from seeking election to a local board of education.

1794 (c) The supervision provided for under subsection (b) of this Code section shall be  
 1795 conducted by a ~~probation~~ an officer, law enforcement officer, or computer information  
 1796 technology specialist working under the supervision of a ~~probation~~ an officer or law  
 1797 enforcement agency.

1798 42-8-35.1.

1799 (a) Notwithstanding ~~In addition to~~ any other terms or conditions of probation ~~provided for~~  
 1800 ~~under this chapter, the trial judge which may be imposed, a court~~ may provide that  
 1801 probationers sentenced for felony offenses ~~committed on or after July 1, 1993~~, to a period  
 1802 of time of not less than one year on probation as a condition of probation ~~must~~ shall  
 1803 satisfactorily complete a program of confinement in a 'special alternative  
 1804 incarceration—probation boot camp' unit of the ~~department~~ Department of Corrections for  
 1805 a period of 120 days computed from the time of initial confinement in the unit; provided,

1806 however, ~~the department~~ that the Department of Corrections may release the defendant  
 1807 upon service of 90 days in recognition of excellent behavior.

1808 (b) Before a court ~~can~~ may place ~~this~~ such condition upon the sentence, an initial  
 1809 investigation ~~will~~ shall be completed by the ~~probation~~ officer which ~~will indicate~~ indicates  
 1810 that the probationer is qualified for such treatment in that the individual does not appear  
 1811 to be physically or mentally disabled in a way that would prevent him or her from  
 1812 strenuous physical activity, that the individual has no obvious contagious diseases, that the  
 1813 individual is not less than 17 years of age nor more than 30 years of age at the time of  
 1814 sentencing, and that the ~~department~~ Department of Corrections has granted provisional  
 1815 approval of the placement of the individual in the 'special alternative  
 1816 incarceration—probation boot camp' unit.

1817 (c) In every case ~~where~~ when an individual is sentenced under the terms of this Code  
 1818 section, the sentencing court shall, within its probation order, direct the ~~department~~  
 1819 Department of Corrections to arrange with the sheriff's office in the county of incarceration  
 1820 to have the individual delivered to a designated unit of the ~~department~~ Department of  
 1821 Corrections within a specific date not more than 15 days after the issuance of such  
 1822 probation order by the court.

1823 (d) At any time during the individual's confinement in the unit, but at least five days prior  
 1824 to his or her expected date of release, the ~~department~~ Department of Corrections shall  
 1825 certify to the trial court as to whether the individual has satisfactorily completed ~~this~~ the  
 1826 condition of probation provided in subsection (a) of this Code section.

1827 (e) Upon the receipt of a satisfactory report of performance in the program from the  
 1828 ~~department~~ Department of Corrections, the trial court shall release the individual from  
 1829 confinement in the 'special alternative incarceration—probation boot camp' unit. However,  
 1830 the receipt of an unsatisfactory report ~~will~~ shall be grounds for revocation of the probated  
 1831 sentence as would any other violation of a condition or term of probation.

1832 (f) The satisfactory report of performance in the program from the ~~department~~ Department  
 1833 of Corrections shall, in addition to the other requirements specified in this Code section,  
 1834 require participation of the individual confined in the unit in such adult education courses  
 1835 necessary to attain the equivalency of a grade five competency level as established by the  
 1836 State Board of Education for elementary schools. Those individuals who are mentally  
 1837 disabled as determined by initial testing ~~are~~ shall be exempt from mandatory participation.  
 1838 After the individual is released from the unit, it shall be a special condition of probation  
 1839 that the individual participate in an education program in the community until grade five  
 1840 level competency is achieved or active probation supervision terminates. It shall be the  
 1841 duty of the ~~department~~ Department of Corrections to certify to the trial court that such  
 1842 individual has satisfactorily completed ~~this~~ such condition of probation while on active

1843 probation supervision. The receipt of an unsatisfactory report may be grounds for  
1844 revocation of the probated sentence as would any other violation of a condition or term of  
1845 probation. Under certain circumstances, the probationer may be exempt from this  
1846 requirement if it is determined by the ~~probation~~ officer that community education resources  
1847 are inaccessible to the probationer.

1848 42-8-35.2.

1849 (a) Notwithstanding any other provisions of law, the court, when imposing a sentence of  
1850 imprisonment after a conviction of a violation of subsection (b) or (d) of Code Section  
1851 16-13-30 or after a conviction of a violation of Code Section 16-13-31, shall impose a  
1852 special term of probation of three years in addition to such term of imprisonment; provided,  
1853 however, that upon a second or subsequent conviction of a violation of the provisions of  
1854 such Code sections ~~as stated in this subsection~~, the special term of probation shall be six  
1855 years in addition to any term of imprisonment.

1856 (b) A special term of probation imposed under this Code section may be revoked if the  
1857 terms and conditions of probation are violated. In such circumstances the original term of  
1858 imprisonment shall be increased by the period of the special term of probation and the  
1859 resulting new term of imprisonment shall not be diminished by the time which was spent  
1860 on special probation. A person whose special term of probation has been revoked may be  
1861 required to serve all or part of the remainder of the new term of imprisonment. A special  
1862 term of probation provided for in this Code section shall be in addition to, and not in lieu  
1863 of, any other probation provided for by law and shall be supervised in the same manner as  
1864 other probations as provided in this chapter.

1865 (c) Upon written application by the probationer to the trial court, the court may, in its  
1866 discretion, suspend the balance of any special term of probation, provided that at least  
1867 one-half of ~~said~~ such special term of probation has been completed and all fines associated  
1868 with the original sentence have been paid and all other terms of the original sentence and  
1869 the terms of the special probation have been met by the probationer.

1870 42-8-35.3.

1871 Notwithstanding any other terms or conditions of probation which may be imposed, a court  
1872 sentencing a defendant to probation for a violation of Code Section 16-5-90 or 16-5-91  
1873 may impose one or more of the following conditions on such probation:

- 1874 (1) Prohibit the defendant from engaging in conduct in violation of Code Section 16-5-90  
1875 or 16-5-91;
- 1876 (2) Require the defendant to undergo a mental health evaluation and, if it is determined  
1877 by the court from the results of such evaluation that the defendant is in need of treatment

1878 or counseling, require the defendant to undergo mental health treatment or counseling by  
 1879 a court approved mental health professional, mental health facility, or facility of the  
 1880 Department of Behavioral Health and Developmental Disabilities. Unless the defendant  
 1881 is indigent, the cost of any such treatment shall be borne by the defendant; or

1882 (3) Prohibit the defendant from entering or remaining present at the victim's school,  
 1883 place of employment, or other specified places at times when the victim is present.

1884 42-8-35.4.

1885 (a) ~~Notwithstanding In addition to~~ any other terms and conditions of probation ~~provided~~  
 1886 ~~for in this article, the trial judge~~ which may be imposed, a court may require that a  
 1887 defendant convicted of a felony and sentenced to a period of not less than one year on  
 1888 probation or a defendant who has been previously sentenced to probation for a forcible  
 1889 misdemeanor as defined in paragraph (7) of Code Section 16-1-3 or a misdemeanor of a  
 1890 high and aggravated nature and has violated probation or other probation alternatives and  
 1891 is subsequently sentenced to a period of not less than one year on probation shall complete  
 1892 satisfactorily, as a condition of ~~that~~ such probation, a program of confinement, not to  
 1893 exceed 180 days, in a probation detention center. Probationers so sentenced shall be  
 1894 required to serve the period of confinement, not to exceed 180 days, specified in the court  
 1895 order.

1896 (b) The court shall determine that the defendant is at least 17 years of age at the time of  
 1897 sentencing.

1898 (c) During the period of confinement, the ~~department~~ Department of Corrections may  
 1899 transfer the probationer to other facilities in order to provide needed physical and mental  
 1900 health care or for other reasons essential to the care and supervision of the probationer or  
 1901 as necessary for the effective administration and management of its facilities.

1902 42-8-35.5.

1903 (a) ~~Notwithstanding In addition to~~ any other terms and conditions of probation ~~provided~~  
 1904 ~~in this article, the trial judge~~ which may be imposed, a court may require that probationers  
 1905 sentenced to a period of not less than one year on probation shall satisfactorily complete,  
 1906 as a condition of ~~that~~ such probation, a program in a probation diversion center.  
 1907 Probationers so sentenced ~~will~~ shall be required to serve a period of confinement as  
 1908 specified in the court order, which confinement period shall be computed from the date of  
 1909 initial confinement in the diversion center.

1910 (b) The court shall determine that the defendant is at least 17 years of age at the time of  
 1911 sentencing, is capable both physically and mentally of maintaining paid employment in the  
 1912 community, and does not unnecessarily jeopardize the safety of the community.

1913 (c) The ~~department~~ Department of Corrections may assess and collect room and board fees  
 1914 from diversion center program participants at a level set by the ~~department~~ Department of  
 1915 Corrections.

1916 42-8-35.6.

1917 (a) Notwithstanding any other terms or conditions of probation which may be imposed,  
 1918 a court sentencing a defendant to probation for an offense involving family violence as  
 1919 such term is defined in Code Section 19-13-10 shall require as a condition of probation that  
 1920 the defendant participate in a family violence intervention program certified pursuant to  
 1921 Article 1A of Chapter 13 of Title 19, unless the court determines and states on the record  
 1922 why participation in such a program is not appropriate.

1923 (b) A court, in addition to imposing any penalty provided by law, when revoking a  
 1924 defendant's probation for an offense involving family violence as defined by Code Section  
 1925 19-13-10, or when imposing a protective order against family violence, shall order the  
 1926 defendant to participate in a family violence intervention program certified pursuant to  
 1927 Article 1A of Chapter 13 of Title 19, unless the court determines and states on the record  
 1928 why participation in such program is not appropriate.

1929 (c) The State Board of Pardons and Paroles, for a violation of parole for an offense  
 1930 involving family violence as defined by Code Section 19-13-10, shall require the  
 1931 conditional releasee to participate in a family violence intervention program certified  
 1932 pursuant to Article 1A of Chapter 13 of Title 19, unless the State Board of Pardons and  
 1933 Paroles determines why participation in such a program is not appropriate.

1934 (d) Unless the defendant is indigent, the cost of the family violence intervention program  
 1935 as provided by this Code section shall be borne by the defendant. If the defendant is  
 1936 indigent, then the cost of the program shall be determined by a sliding scale based upon the  
 1937 defendant's ability to pay.

1938 42-8-35.7.

1939 Unless the court or State Board of Pardons and Paroles has ordered more frequent ~~such~~  
 1940 screenings, ~~it shall be the duty of each probation supervisor to administer or have~~  
 1941 ~~administered a drug and alcohol screening not less than once every 60 days to any person~~  
 1942 ~~who is placed on probation and who, as a condition of such probation, is required to~~  
 1943 ~~undergo regular, random drug and alcohol screenings, provided that the drug and alcohol~~  
 1944 ~~screenings required by this Code section shall be performed only to the extent that~~  
 1945 ~~necessary funds therefor are appropriated in the state budget~~ drug and alcohol screenings  
 1946 shall be administered in accordance with DCS rules and regulations.

1947 42-8-36.

1948 (a)(1) It shall be the duty of a probationer, as a condition of probation, to keep his or her  
 1949 ~~probation supervisor~~ officer informed as to his or her residence. Upon the  
 1950 recommendation of the ~~probation supervisor~~ officer, the court may also require, as a  
 1951 condition of probation and under such terms as the court deems advisable, that the  
 1952 probationer keep the ~~probation supervisor~~ officer informed as to his or her whereabouts.

1953 (2) The running of a probated sentence shall be tolled upon:

1954 (A) The failure of a probationer to report to his or her ~~probation supervisor~~ officer as  
 1955 directed or failure to appear in court for a probation revocation hearing; either of such  
 1956 failures may be evidenced by an affidavit from the ~~probation supervisor~~ officer setting  
 1957 forth such failure; or

1958 (B) The filing of a return of non est inventus or other return to a warrant, for the  
 1959 violation of the terms and conditions of probation, that the probationer cannot be found  
 1960 in the county that appears from the records of the ~~probation supervisor~~ officer to be the  
 1961 probationer's county of residence. Any officer authorized by law to issue or serve  
 1962 warrants may return the warrant for the absconded probationer showing non est  
 1963 inventus.

1964 (3) The effective date of the tolling of the sentence shall be the date the court enters a  
 1965 tolling order and shall continue until the probationer shall personally report to the  
 1966 ~~probation supervisor~~ officer, is taken into custody in this state, or is otherwise available  
 1967 to the court.

1968 (4) Any tolled period of time shall not be included in computing creditable time served  
 1969 on probation or as any part of the time that the probationer was sentenced to serve.

1970 (b) Any unpaid fines, restitution, or any other moneys owed as a condition of probation  
 1971 shall be due when the probationer is arrested; but, if the entire balance of his or her  
 1972 probation is revoked, all the conditions of probation, including moneys owed, shall be  
 1973 negated by ~~his~~ the probationer's imprisonment. If only part of the balance of the probation  
 1974 is revoked, the probationer shall still be responsible for the full amount of the unpaid fines,  
 1975 restitution, and other moneys upon his or her return to probation after release from  
 1976 imprisonment.

1977 42-8-37.

1978 (a) Upon the termination of the probated portion of a sentence, the probationer shall be  
 1979 released from probation and shall not be liable to sentence for the crime for which  
 1980 probation was allowed; provided, however, that the foregoing shall not be construed to  
 1981 prohibit the conviction and sentencing of the probationer for the subsequent commission

1982 of the same or a similar offense or for the subsequent continuation of the offense for which  
 1983 he or she was previously sentenced.

1984 (b) The court may at any time cause the probationer to appear before it to be admonished  
 1985 or commended and, when satisfied that its action would be for the best ~~interests~~ interest of  
 1986 justice and the welfare of society, may discharge the probationer from further supervision.

1987 (c) The case of each person receiving a probated sentence of more than two years shall be  
 1988 reviewed by the ~~probation supervisor~~ officer responsible for ~~that~~ such case after service of  
 1989 two years on probation, and a written report of the probationer's progress shall be submitted  
 1990 to the sentencing court along with the ~~supervisor's~~ officer's recommendation as to early  
 1991 termination. Each such case shall be reviewed and a written report submitted annually  
 1992 thereafter until the termination, expiration, or other disposition of the case.

1993 42-8-38.

1994 (a) Whenever, within the period of probation, a ~~probation supervisor~~ an officer believes  
 1995 that a probationer under his or her supervision has violated ~~his or her~~ the terms of probation  
 1996 in a material respect, if graduated sanctions have been made a condition of probation by  
 1997 the court, the ~~probation supervisor~~ officer may impose graduated sanctions as set forth in  
 1998 Code Section 42-8-23 to address the specific conduct leading to such violation or, if the  
 1999 circumstances warrant, may arrest the probationer without warrant, wherever found, and  
 2000 return the probationer to the court granting the probation or, if under supervision in a  
 2001 county or judicial circuit other than that of conviction, to a court of equivalent original  
 2002 criminal jurisdiction within the county wherein the probationer resides for purposes of  
 2003 supervision. Any officer authorized by law to issue warrants may issue a warrant for the  
 2004 arrest of the probationer upon the affidavit of one having knowledge of the alleged  
 2005 violation, returnable forthwith before the court in which revocation proceedings are being  
 2006 brought.

2007 (b) The court, upon the probationer being brought before it, may commit ~~him~~ the  
 2008 probationer or release ~~him~~ the probationer with or without bail to await further hearing, or  
 2009 it may dismiss the charge. If the charge is not dismissed at this time, the court shall give  
 2010 the probationer an opportunity to be heard fully at the earliest possible date on his or her  
 2011 own behalf, in person or by counsel, provided that, if the revocation proceeding is in a  
 2012 court other than the court of the original criminal conviction, the sentencing court shall be  
 2013 given ten days' written notice prior to a hearing on the merits.

2014 (c) After the hearing, the court may revoke, modify, or continue the probation. If the  
 2015 probation is revoked, the court may order the execution of the sentence originally imposed  
 2016 or of any portion thereof. In such event, the time that the defendant has served under

2017 probation shall be considered as time served and shall be deducted from and considered a  
 2018 part of the time he or she was originally sentenced to serve.

2019 (d) In cases where the probation is revoked in a county other than the county of original  
 2020 conviction, the clerk of court in the county revoking probation may record the order of  
 2021 revocation in the judge's minute docket, which recordation shall constitute sufficient  
 2022 permanent record of the proceedings in ~~that~~ such court. The clerk shall send ~~one copy~~  
 2023 copies of the order revoking probation to ~~the department~~ DCS and the Department of  
 2024 Corrections to serve as a temporary commitment and shall send the original order revoking  
 2025 probation and all other papers pertaining thereto to the county of original conviction to be  
 2026 filed with the original records. The clerk of court of the county of original conviction shall  
 2027 then issue a formal commitment to the ~~department~~ Department of Corrections.

2028 42-8-39.

2029 In all criminal cases in which the defendant is found guilty or in which a plea of guilty or  
 2030 of nolo contendere is entered and in which the ~~trial judge~~ court after imposing sentence  
 2031 further provides that the execution of the sentence shall be suspended, such provision shall  
 2032 not have the effect of placing the defendant on probation as provided in this article.

2033 42-8-40.

2034 ~~(a) Except as provided in subsection (b) of this Code section, all~~ All reports, files, records,  
 2035 and ~~papers~~ information of whatever kind relative to the ~~state-wide probation system~~  
 2036 supervision of probationers and parolees are declared to be confidential and shall be  
 2037 available only to the probation system officials, ~~and to the judge handling a particular case:~~  
 2038 They, the Board of Community Supervision, DCS, the Department of Corrections, the  
 2039 Department of Juvenile Justice, and the State Board of Pardons and Paroles, as appropriate.  
 2040 Such reports, files, records, and information shall not be subject to process of subpoena:  
 2041 ~~However, the commissioner; provided, however, that the commissioner of community~~  
 2042 supervision may by written order declassify any such records.

2043 ~~(b) Supervision records of the State Board of Pardons and Paroles may be made available~~  
 2044 ~~to officials employed with the state-wide probation system, provided that the same shall~~  
 2045 ~~remain confidential and not available to any other person or subject to subpoena unless~~  
 2046 ~~declassified by the State Board of Pardons and Paroles.~~

2047 42-8-41.

2048 All state and local departments, agencies, boards, bureaus, commissions, and committees  
 2049 shall cooperate with ~~the probation officials~~ officers.

2050 42-8-42.

2051 DCS ~~The department~~ may provide office space and clerical help wherever needed. The  
 2052 counties of this state shall cooperate in this respect and, wherever possible, shall furnish  
 2053 office space if needed.

2054 ~~42-8-43.~~

2055 ~~Except as otherwise provided by law, any county probation system in existence on~~  
 2056 ~~February 8, 1956, shall not be affected by the passage of this article, regardless of whether~~  
 2057 ~~the law under which the system exists is specifically repealed by this article. The personnel~~  
 2058 ~~of the system shall continue to be appointed and employed under the same procedure as~~  
 2059 ~~used prior to February 8, 1956, and the system shall be financed under the same method~~  
 2060 ~~as it was financed prior to February 8, 1956. However, the substantive provisions of this~~  
 2061 ~~article relative to probation shall be followed, and to this end any probation officer of such~~  
 2062 ~~system shall be deemed to be the same as a probation supervisor, with the probation~~  
 2063 ~~supervisor assigned by the department serving in a liaison capacity between the county~~  
 2064 ~~probation system and the department.~~

2065 ~~42-8-43.1.~~

2066 ~~(a) This Code section shall apply to county probation systems of all counties of this state~~  
 2067 ~~having a population of 400,000 or more according to the United States decennial census~~  
 2068 ~~of 1980 or any future such census, any provision of Code Section 42-8-43 to the contrary~~  
 2069 ~~notwithstanding. The department shall participate in the cost of the county probation~~  
 2070 ~~systems subject to this Code section for fiscal years 1982-83 and 1983-84. The department~~  
 2071 ~~shall compute the state cost per probationer on a state-wide basis for each of the aforesaid~~  
 2072 ~~fiscal years pursuant to the formula used by the Office of Planning and Budget to determine~~  
 2073 ~~the state cost for probation for budgetary purposes. For each of the aforesaid fiscal years,~~  
 2074 ~~the department shall pay to the governing authority of each county maintaining a county~~  
 2075 ~~probation system subject to this Code section the percentage shown below of the state-wide~~  
 2076 ~~cost per probationer for each probationer being supervised under the respective county~~  
 2077 ~~probation system as of the first day of each of said fiscal years:~~

2078 ~~(1) For fiscal year 1982-83, 10 percent; and~~

2079 ~~(2) For fiscal year 1983-84, 10-100 percent.~~

2080 ~~(b) The funds necessary to participate in the cost of county probation systems under~~  
 2081 ~~subsection (a) of this Code section shall come from funds appropriated to the department~~  
 2082 ~~for the purposes of providing state participation in the cost of county probation systems.~~  
 2083 ~~The payments to counties provided for in subsection (a) of this Code section shall be made~~  
 2084 ~~by, or pursuant to the order of, the department in single lump sum payment for each fiscal~~

2085 year, with the payment for fiscal year 1982-83 being made by May 1, 1983, and the one for  
 2086 fiscal year 1983-84 by May 1, 1984. As a condition necessary for a county to qualify for  
 2087 department participation in the cost of the county's probation system, the employees of  
 2088 such county probation systems shall be subject to the supervision, control, and direction  
 2089 of the department.

2090 (c) ~~Each county probation system subject to the provisions of this Code section shall~~  
 2091 ~~become a part of the state-wide probation system provided for by this article effective on~~  
 2092 ~~July 1, 1984, and shall be fully funded from state funds as a part of the state-wide probation~~  
 2093 ~~system beginning with fiscal year 1984-85. The employees of said county probation~~  
 2094 ~~systems, at their option, shall become employees of the department on the date said county~~  
 2095 ~~systems become a part of the state-wide probation system and, on or after said date, said~~  
 2096 ~~employees shall be subject to the salary schedules and other personnel policies of the~~  
 2097 ~~department, except that the salaries of such employees shall not be reduced as a result of~~  
 2098 ~~becoming employees of the department.~~

2099 (d) ~~When an employee of a county probation system of any county of this state having a~~  
 2100 ~~population of 550,000 or more according to the United States decennial census of 1980 or~~  
 2101 ~~any future such census becomes an employee of the department pursuant to subsection (c)~~  
 2102 ~~of this Code section at the same or a greater salary, the change in employment shall not~~  
 2103 ~~constitute involuntary separation from service or termination of employment within the~~  
 2104 ~~meaning of any local retirement or pension system of which the employee was a member~~  
 2105 ~~at the time of such change in employment, and the change in employment shall not entitle~~  
 2106 ~~the employee to begin receiving any retirement or pension benefit whatsoever under any~~  
 2107 ~~such local retirement or pension system.~~

2108 ~~42-8-43.2.~~

2109 (a) ~~This Code section shall apply to county probation systems, including state court adult~~  
 2110 ~~probation systems, of each county having a population of more than 100,000 in any~~  
 2111 ~~metropolitan statistical area having a population of not less than 200,000 nor more than~~  
 2112 ~~230,000 according to the United States decennial census of 1980 or any future such census,~~  
 2113 ~~any provision of Code Section 42-8-43 to the contrary notwithstanding. The department~~  
 2114 ~~shall participate in the cost of the county probation systems subject to this Code section for~~  
 2115 ~~fiscal year 1987-88. The department shall compute the state cost per probationer on a~~  
 2116 ~~state-wide basis for such fiscal year pursuant to the formula used by the Office of Planning~~  
 2117 ~~and Budget to determine the state cost for probation for budgetary purposes. For said fiscal~~  
 2118 ~~year, the department shall pay to the governing authority of each county maintaining a~~  
 2119 ~~county probation system subject to this Code section 10 percent of the state-wide cost per~~  
 2120 ~~probationer for each probationer being supervised under the respective county probation~~

2121 ~~system as of the first day of said fiscal year. The funds necessary to participate in the cost~~  
2122 ~~of county probation systems under this subsection shall come from funds appropriated to~~  
2123 ~~the department for the purposes of providing state participation in the cost of county~~  
2124 ~~probation systems. The payments to counties provided for in this subsection shall be made~~  
2125 ~~by, or pursuant to the order of, the department in single lump sum payment for fiscal year~~  
2126 ~~1987-88, with the payment being made by May 1, 1988. As a condition necessary for a~~  
2127 ~~county to qualify for department participation in the cost of the county's probation system,~~  
2128 ~~the county shall cause to be made an independent audit of the financial affairs and~~  
2129 ~~transactions of all funds and activities of the county probation system and agree to be~~  
2130 ~~responsible for any discrepancies, obligations, debts, or liabilities of such county probation~~  
2131 ~~system which may exist prior to the department's participation in the cost of the county's~~  
2132 ~~probation system. As a further condition necessary for a county to qualify for department~~  
2133 ~~participation in the cost of the county's probation system, the employees of such county~~  
2134 ~~probation systems shall be subject to the supervision, control, and direction of the~~  
2135 ~~department.~~

2136 ~~(b) The county probation system of any such county shall become a part of the state-wide~~  
2137 ~~probation system provided for by this article effective July 1, 1988, and shall be fully~~  
2138 ~~funded from state funds as part of the state-wide probation system beginning with fiscal~~  
2139 ~~year 1988-89. The employees of such county probation system, at their option, shall~~  
2140 ~~become employees of the department on the date said county system becomes a part of the~~  
2141 ~~state-wide probation system and, on or after said date, said employees shall be subject to~~  
2142 ~~the salary schedules and other personnel policies of the department, except that the salaries~~  
2143 ~~of such employees shall not be reduced as a result of becoming employees of the~~  
2144 ~~department.~~

2145 ~~(c) When an employee of a county probation system becomes an employee of the~~  
2146 ~~department pursuant to subsection (b) of this Code section at the same or a greater salary,~~  
2147 ~~the change in employment shall not constitute involuntary separation from service or~~  
2148 ~~termination of employment within the meaning of any local retirement or pension system~~  
2149 ~~of which the employee was a member at the time of such change in employment, and the~~  
2150 ~~change in employment shall not entitle the employee to begin receiving any retirement or~~  
2151 ~~pension benefit whatsoever under any such local retirement or pension system.~~

2152 ~~(d) No leave time accrued by an employee of a county probation system shall be~~  
2153 ~~transferred when the employee becomes a state employee. Any leave time accrued by an~~  
2154 ~~employee of such county probation system shall be satisfied as a debt owed to the~~  
2155 ~~employee by the county.~~

2156 ~~42-8-43.3.~~

2157 ~~(a) This Code section shall apply to county probation systems, including state court adult~~  
2158 ~~probation systems, of each county having a population of 250,000 or more according to the~~  
2159 ~~United States decennial census of 1980 or any future such census, any provision of Code~~  
2160 ~~Section 42-8-43 to the contrary notwithstanding. The department shall participate in the~~  
2161 ~~cost of the county probation systems subject to this Code section for fiscal year 1988-89.~~  
2162 ~~For said fiscal year, the department shall pay to the governing authority of each county~~  
2163 ~~maintaining a county probation system subject to this Code section 10 percent of the annual~~  
2164 ~~county probation system budget as of the first day of said fiscal year. The funds necessary~~  
2165 ~~to participate in the cost of county probation systems under this subsection shall come from~~  
2166 ~~funds appropriated to the department for the purposes of providing state participation in the~~  
2167 ~~cost of county probation systems. The payments to counties provided for in this subsection~~  
2168 ~~shall be made by, or pursuant to the order of, the department in single lump sum payment~~  
2169 ~~for fiscal year 1988-89, with the payment being made by May 1, 1989. As a condition~~  
2170 ~~necessary for a county to qualify for department participation in the cost of the county's~~  
2171 ~~probation system, the county shall cause to be made an independent audit of the financial~~  
2172 ~~affairs and transactions of all funds and activities of the county probation system and agree~~  
2173 ~~to be responsible for any discrepancies, obligations, debts, or liabilities of such county~~  
2174 ~~probation system which may exist prior to the department's participation in the cost of the~~  
2175 ~~county's probation system. As a further condition necessary for a county to qualify for~~  
2176 ~~department participation in the cost of the county's probation system, the employees of~~  
2177 ~~such county probation systems shall be subject to the supervision, control, and direction~~  
2178 ~~of the department.~~

2179 ~~(b) The county probation system of any such county shall become a part of the state-wide~~  
2180 ~~probation system provided for by this article effective July 1, 1989, and shall be fully~~  
2181 ~~funded from state funds as part of the state-wide probation system beginning with fiscal~~  
2182 ~~year 1989-90. The employees of such county probation system, at their option, shall~~  
2183 ~~become employees of the department on the date said county system becomes a part of the~~  
2184 ~~state-wide probation system and, on or after said date, said employees shall be subject to~~  
2185 ~~the salary schedules and other personnel policies of the department, except that the salaries~~  
2186 ~~of such employees shall not be reduced as a result of becoming employees of the~~  
2187 ~~department.~~

2188 ~~(c) When an employee of a county probation system becomes an employee of the~~  
2189 ~~department pursuant to subsection (b) of this Code section at the same or a greater salary,~~  
2190 ~~the change in employment shall not constitute involuntary separation from service or~~  
2191 ~~termination of employment within the meaning of any local retirement or pension system~~  
2192 ~~of which the employee was a member at the time of such change in employment, and the~~

2193 ~~change in employment shall not entitle the employee to begin receiving any retirement or~~  
 2194 ~~pension benefit whatsoever under any such local retirement or pension system.~~

2195 ~~(d) No leave time accrued by an employee of a county probation system shall be~~  
 2196 ~~transferred when the employee becomes a state employee. Any leave time accrued by an~~  
 2197 ~~employee of such county probation system shall be satisfied as a debt owed to the~~  
 2198 ~~employee by the county.~~

2199 ~~42-8-44.~~ 42-8-43.

2200 This article shall be liberally construed so that its purposes may be achieved."

## 2201 **PART V**

### 2202 **CONFORMING REFERENCES**

#### 2203 **SECTION 5-1.**

2204 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
 2205 subsection (c) of Code Section 15-1-4, relating to the extent of contempt power, as follows:

2206 "(c) When a person who is gainfully employed violates an order of the court granting  
 2207 temporary or permanent alimony or child support and the judge finds the person in  
 2208 contempt of court, the sentencing judge may sentence the respondent to a term of  
 2209 confinement in a diversion center and participation in a diversion program if such a  
 2210 program has been established by a county pursuant to the provisions of Article 8 5 of  
 2211 Chapter 8 3 of Title 42."

#### 2212 **SECTION 5-2.**

2213 Said title is further amended by revising paragraphs (3) and (7) of subsection (a) of Code  
 2214 Section 15-1-15, relating to drug court divisions, as follows:

2215 "(3) Each drug court division shall establish a planning group to develop a work plan.  
 2216 The planning group shall include the judges, prosecuting attorneys, public defenders,  
 2217 ~~probation~~ community supervision officers, and persons having expertise in the field of  
 2218 substance abuse. The work plan shall address the operational, coordination, resource,  
 2219 information management, and evaluation needs of the drug court division. The work plan  
 2220 shall include drug court division policies and practices related to implementing the  
 2221 standards and practices developed pursuant to paragraph (4) of this subsection. The work  
 2222 plan shall ensure a risk and needs assessment is used to identify the likelihood of  
 2223 recidivating and identify the needs that, when met, reduce recidivism. The work plan  
 2224 shall ensure that drug court division eligibility shall be focused on moderate-risk and  
 2225 high-risk offenders as determined by a risk and needs assessment. The drug court

2226 division shall combine judicial supervision, treatment of drug court division participants,  
2227 and drug testing."

2228 "(7) The court instituting the drug court division may request ~~probation~~ community  
2229 supervision officers and other employees of the court to perform duties for the drug court  
2230 division. Such employees shall perform duties as directed by the judges of the drug court  
2231 division."

### 2232 SECTION 5-3.

2233 Said title is further amended by revising paragraph (3) of subsection (b) of Code Section  
2234 15-1-16, relating to mental health court divisions, as follows:

2235 "(3) Each mental health court division shall establish a planning group to develop a  
2236 written work plan. The planning group shall include judges, prosecuting attorneys,  
2237 sheriffs or their designees, public defenders, ~~probation~~ community supervision officers,  
2238 and persons having expertise in the field of mental health. The work plan shall address  
2239 the operational, coordination, resource, information management, and evaluation needs  
2240 of the mental health court division. The work plan shall include mental health court  
2241 division policies and practices related to implementing the standards and practices  
2242 developed pursuant to paragraph (4) of this subsection. The work plan shall ensure a risk  
2243 and needs assessment is used to identify the likelihood of recidivating and identify the  
2244 needs that, when met, reduce recidivism. The work plan shall ensure that mental health  
2245 court division eligibility shall be focused on moderate-risk and high-risk offenders as  
2246 determined by a risk and needs assessment. The mental health court division shall  
2247 combine judicial supervision, treatment of mental health court division participants, and  
2248 drug and mental health testing. Defendants charged with murder, murder in the second  
2249 degree, armed robbery, rape, aggravated sodomy, aggravated sexual battery, aggravated  
2250 child molestation, or child molestation shall not be eligible for entry into the mental  
2251 health court division, except in the case of a separate court supervised reentry program  
2252 designed to more closely monitor mentally ill offenders returning to the community after  
2253 having served a term of incarceration. Any such court supervised community reentry  
2254 program for mentally ill offenders shall be subject to the work plan as provided for in this  
2255 paragraph."

### 2256 SECTION 5-4.

2257 Said title is further amended by revising paragraph (3) of subsection (b) of Code Section  
2258 15-1-17, relating to veterans court divisions, as follows:

2259 "(3) Each veterans court division shall establish a planning group to develop a written  
2260 work plan. The planning group shall include judges, prosecuting attorneys, sheriffs or

2261 their designees, public defenders, ~~probation~~ community supervision officers, and persons  
 2262 having expertise in services available to veterans. The work plan shall address the  
 2263 operational, coordination, resource, information management, and evaluation needs of  
 2264 the veterans court division. The work plan shall include veterans court division policies  
 2265 and practices related to implementing the standards and practices developed pursuant to  
 2266 paragraph (4) of this subsection. The veterans court division shall combine judicial  
 2267 supervision, treatment of veterans court division participants, and drug and mental health  
 2268 testing. The work plan shall include eligibility criteria for the veterans court division.  
 2269 Defendants charged with murder, armed robbery, rape, aggravated sodomy, aggravated  
 2270 sexual battery, aggravated child molestation, or child molestation shall not be eligible for  
 2271 entry into the veterans court division, except in the case of a separate court supervised  
 2272 reentry program designed to more closely monitor veterans returning to the community  
 2273 after having served a term of incarceration. Any such court supervised community  
 2274 reentry program for mentally ill offenders shall be subject to the work plan as provided  
 2275 for in this paragraph."

#### 2276 SECTION 5-5.

2277 Said title is further amended by revising subsection (i) of Code Section 15-6-77, relating to  
 2278 superior court fees, as follows:

2279 "(i) No fees shall be charged for the following:

2280 (1) Recording discharge certificates of veterans, as provided in Code Section 15-6-78;

2281 (2) Filing a petition as provided in Code Section 42-8-66;

2282 ~~(2)~~(3) Recording and certifying documents in connection with admission to practice law;  
 2283 and

2284 ~~(3)~~(4) Costs associated with the filing of criminal charges by an alleged victim of a  
 2285 violation of Code Section 16-5-90, 16-5-91, 16-6-1, 16-6-2, 16-6-3, 16-6-4, 16-6-5.1,  
 2286 16-6-22.1, or 16-6-22.2 or an alleged victim of any domestic violence offense or for the  
 2287 issuance or service of a warrant, protective order, or witness subpoena arising from the  
 2288 violation of Code Section 16-5-90, 16-5-91, 16-6-1, 16-6-2, 16-6-3, 16-6-4, 16-6-5.1,  
 2289 16-6-22.1, or 16-6-22.2 or the incident of domestic violence."

#### 2290 SECTION 5-6.

2291 Said title is further amended by revising subsection (a) of Code Section 15-5-81, relating to  
 2292 the advisory council to the Georgia Courts Automation Commission, as follows:

2293 "(a) There shall be an advisory council to the Georgia Courts Automation Commission.  
 2294 The advisory council shall consist of: the director of the Georgia Bureau of Investigation  
 2295 or the director's designee, the commissioner of corrections or the commissioner's designee,

2296 the commissioner of community supervision or the commissioner's designee, the  
 2297 commissioner of public safety or the commissioner's designee, the ~~chairman~~ chairperson  
 2298 of the State Board of Pardons and Paroles or the ~~chairman's~~ chairperson's designee, the  
 2299 director of the Administrative Office of the Courts or the director's designee, the director  
 2300 of the Criminal Justice Coordinating Council or the director's designee, the director of the  
 2301 Governor's Office for Children and Families or the director's designee, and the executive  
 2302 director of the Georgia Technology Authority or the executive director's designee."

2303 **SECTION 5-7.**

2304 Said title is further amended by revising subsection (a) of Code Section 15-6-30, relating to  
 2305 travel expenses for judges of the superior courts, as follows:

2306 "(a) The judges of the superior courts of this state shall be entitled to receive, in addition  
 2307 to the compensation provided by law, reimbursement of travel expenses incurred when  
 2308 such a judge attends any court in his or her judicial circuit other than the court in the county  
 2309 of the residence of the judge or when the judge is required to be in any county in his or her  
 2310 circuit other than the county of his or her residence in the discharge of any judicial duty or  
 2311 function, required by law, pertaining to the superior court of such county. Judges and  
 2312 senior judges of the superior courts shall also be entitled to receive reimbursement under  
 2313 this Code section of travel expenses incurred when any such judge is designated to preside  
 2314 in the place of an absent Justice of the Supreme Court or attends a meeting of a judicial  
 2315 administrative district, The Council of Superior Court Judges of Georgia, the Judicial  
 2316 Council of Georgia, ~~the Advisory Council for Probation~~ the Board of Community  
 2317 Supervision, the Judicial Qualifications Commission, or any committee or subcommittee  
 2318 of any such body, or when any such judge attends a meeting with the personnel of any state  
 2319 department or other state agency when such meeting is held to carry out a public purpose;  
 2320 provided, however, that any expenses for which reimbursement is received under this  
 2321 subsection shall not be eligible for reimbursement under Code Section 15-6-32."

2322 **SECTION 5-8.**

2323 Said title is further amended by adding a new paragraph to Code Section 15-11-2, relating  
 2324 to definitions regarding general provisions of the Juvenile Code, to read as follows:

2325 "(13.1) 'Community supervision officer' means an individual employed by the  
 2326 Department of Community Supervision who supervises probations adjudicated for  
 2327 committing a Class A designated felony act or Class B designated felony act."

2328 **SECTION 5-9.**

2329 Said title is further amended by revising subsections (b) and (c) of Code Section 15-11-58,  
2330 relating to the Council of Juvenile Court Judges, role, and director, as follows:

2331 "(b) The Council of Juvenile Court Judges:

2332 (1) Shall meet at stated times to be fixed by it or on call of the chairperson;

2333 (2) May establish general policies for the conduct of courts exercising jurisdiction over  
2334 children;

2335 (3) May promulgate uniform rules and forms governing procedures and practices of the  
2336 courts;

2337 (4) Shall publish in print or electronically an annual report of the work of the courts  
2338 exercising jurisdiction over children, which shall include statistical and other data on the  
2339 courts' work and services, research studies the council may make of the problems of  
2340 children and families dealt with by the courts, and any recommendations for legislation;  
2341 and

2342 (5) Shall be authorized to inspect and copy records of the courts, law enforcement  
2343 agencies, the department, the Department of Community Supervision, and DJJ for the  
2344 purpose of compiling statistical data on children.

2345 (c) Subject to the approval of the Council of Juvenile Court Judges, the presiding judge  
2346 of the council shall appoint a chief administrative and executive officer for the council who  
2347 shall have the title of director of the Council of Juvenile Court Judges. Under the general  
2348 supervision of the presiding judge of the council and within the policies established by the  
2349 council, the director shall:

2350 (1) Provide consultation to the courts regarding the administration of court services and  
2351 the recruitment and training of personnel;

2352 (2) Make recommendations to the council for improvement in court services;

2353 (3) With the approval of the presiding judge, appoint consultants and necessary clerical  
2354 personnel to perform the duties assigned to the council and the director;

2355 (4) Collect necessary statistics and prepare an annual report of the work of the courts;

2356 (5) Promulgate in cooperation with DJJ standard procedures for coordinating DJJ, the  
2357 Department of Community Supervision, and county juvenile probation services  
2358 throughout this state; and

2359 (6) Perform such other duties as the presiding judge of the council shall specify."

2360 **SECTION 5-10.**

2361 Said title is further amended by revising Code Section 15-11-67, relating to duties of  
2362 probation officers, as follows:

2363 "15-11-67.

2364 (a) A county juvenile probation officer or DJJ staff member serving as a juvenile probation  
2365 officer or community supervision officer, as appropriate:

2366 (1) Shall make investigations, reports, and recommendations to the court as directed by  
2367 this chapter;

2368 (2) Shall supervise and assist a child placed on probation or under the protective  
2369 supervision or care of such ~~probation~~ officer by order of the court or other authority of  
2370 law;

2371 (3) May, unless otherwise ordered by the court, determine if a child should be placed on  
2372 unsupervised probation and, if so, place a child on unsupervised probation;

2373 (4) Shall make appropriate referrals to other private or public agencies of the community  
2374 if such assistance appears to be needed or desirable;

2375 (5) May take into custody and detain a child who is under the supervision or care of such  
2376 ~~probation~~ officer if ~~the probation~~ such officer has reasonable cause to believe that such  
2377 child's health or safety or that of another is in imminent danger or that such child may  
2378 abscond or be removed from the jurisdiction of the court, or when so ordered by the court  
2379 pursuant to this chapter;

2380 (6) May not conduct accusatory proceedings against a child who is or may be under such  
2381 ~~probation~~ officer's care or supervision;

2382 (7) Shall perform all other functions designated by this chapter or by order of the court  
2383 pursuant to this chapter. Any of the functions specified in this Code section may be  
2384 performed in another state if authorized by the court located in this state and permitted  
2385 by the laws of the other state; and

2386 (8) Other laws to the contrary notwithstanding, no ~~probation~~ such officer shall be liable  
2387 for the acts of a child not detained or taken into custody when, in the judgment of such  
2388 officer, such detention or custody is not warranted.

2389 (b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall  
2390 maintain sole authority over the duties and responsibilities of all DJJ staff members serving  
2391 as probation officers and the Department of Community Supervision shall maintain sole  
2392 authority over the duties and responsibilities of all of such department's staff serving as  
2393 community supervision officers."

2394 **SECTION 5-11.**

2395 Said title is further amended by revising subparagraph (F) of paragraph (5) of Code Section  
2396 15-11-471, relating to definitions, as follows:

2397 "(F) Electronic monitoring, as such term is defined in Code Section ~~42-8-151~~  
2398 42-3-111;"

**SECTION 5-12.**

2399  
 2400 Said title is further amended by revising Code Section 15-11-473, relating to conduct of  
 2401 delinquency proceedings by prosecuting attorney and access to information, as follows:

2402 "15-11-473.

2403 (a) A prosecuting attorney shall conduct delinquency proceedings on behalf of the state.

2404 (b) Except as provided in Article 9 of this chapter, in any delinquency proceeding, the  
 2405 prosecuting attorney shall be entitled to complete access to all court files, probation files,  
 2406 hearing transcripts, delinquency reports, and any other juvenile court records. It shall be  
 2407 the duty of the clerk, probation and intake officer, probation officers of the juvenile court,  
 2408 community supervision officers, and DJJ to assist a prosecuting attorney in obtaining any  
 2409 requested items."

**SECTION 5-13.**

2410  
 2411 Said title is further amended by revising subsection (h) of Code Section 15-11-506, relating  
 2412 to detention hearing and time limitations, as follows:

2413 "(h) If an alleged delinquent child cannot be returned to the custody of his or her parent,  
 2414 guardian, or legal custodian, a probation officer or community supervision officer, as  
 2415 applicable, shall provide referrals for services as soon as possible to enable such child's  
 2416 parent, guardian, or legal custodian to obtain any assistance that may be needed to  
 2417 effectively provide the care and control necessary for such child to return home."

**SECTION 5-14.**

2418  
 2419 Said title is further amended by revising subsection (b) of Code Section 15-11-562, relating  
 2420 to transfer criteria and probation officer written report contents regarding an alleged  
 2421 delinquent child, as follows:

2422 "(b) A probation officer, or community supervision officer, as applicable, shall prepare a  
 2423 written report developing fully all available information relevant to the transfer criteria.  
 2424 Such A probation officer shall submit such report to the parties and the court as soon as  
 2425 practicable but not later than 24 hours before the scheduled hearing. The child subject to  
 2426 transfer and the prosecuting attorney shall have the right to review such report and  
 2427 cross-examine the individual making such report."

**SECTION 5-15.**

2428  
 2429 Said title is further amended by revising paragraphs (2) and (3) of subsection (a) of Code  
 2430 Section 15-11-601, relating to disposition of a delinquent act, as follows:

2431 "(2) An order requiring such child and his or her parent, guardian, or legal custodian to  
 2432 participate in counseling or in counsel and advice. Such counseling and counsel and

2433 advice may be provided by the court, court personnel, probation officers, community  
 2434 supervision officers, professional counselors or social workers, psychologists, physicians,  
 2435 physician assistants, qualified volunteers, or appropriate public, private, or volunteer  
 2436 agencies and shall be designed to assist in deterring future delinquent acts or other  
 2437 conduct or conditions which would be harmful to such child or society;

2438 (3) An order placing such child on probation under conditions and limitations the court  
 2439 prescribes and which may include the probation management program. The court may  
 2440 place such child on probation under the supervision of:

2441 (A) A probation officer of the court or the court of another state or a community  
 2442 supervision officer;

2443 (B) Any public agency authorized by law to receive and provide care for such child;  
 2444 or

2445 (C) Any community rehabilitation center if its chief executive officer has  
 2446 acknowledged in writing its willingness to accept the responsibility for the supervision  
 2447 of such child;"

2448 **SECTION 5-16.**

2449 Said title is further amended by revising subsection (b) of Code Section 15-11-710, relating  
 2450 to exchange of information, as follows:

2451 "(b) Governmental entities and state, county, municipal, or consolidated government  
 2452 departments, boards, or agencies shall exchange with each other all information not held  
 2453 as confidential pursuant to federal law and relating to a child which may aid a  
 2454 governmental entity in the assessment, treatment, intervention, or rehabilitation of a child,  
 2455 notwithstanding Code Section 15-1-15, 15-11-40, 15-11-105, 15-11-170, 15-11-264,  
 2456 15-11-541, 15-11-542, 15-11-603, 15-11-708, 15-11-709, 15-11-744, 20-2-751.2,  
 2457 20-14-40, 24-12-10, 24-12-11, 24-12-20, 26-4-5, 26-4-80, 26-5-17, 31-5-5, 31-33-6,  
 2458 37-1-53, 37-2-9.1, 42-5-36, 42-8-40, ~~42-8-106~~ 42-8-109.2, 49-5-40, 49-5-41, 49-5-41.1,  
 2459 49-5-44, 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best  
 2460 interests of such child. Information which is shared pursuant to this subsection shall not  
 2461 be utilized to assist in the prosecution of a child in juvenile, superior, or state court or  
 2462 utilized to the detriment of such child."

2463 **SECTION 5-17.**

2464 Said title is further amended by revising subsection (a) of Code Section 15-11-705, relating  
 2465 to child in need of services records and penalty for disclosure, as follows:

2466 "(a) Notwithstanding other provisions of this article, the court records of proceedings under  
 2467 Article 5 of this chapter shall be withheld from public inspection but shall be open to

2468 inspection by juvenile probation ~~and parole~~ officers, community supervision officers, a  
 2469 child who is a party in a proceeding, his or her parent, guardian, or legal custodian, such  
 2470 child's attorney, and others entrusted with the supervision of such child. Additional access  
 2471 to court records may be granted by court order."

2472 **SECTION 5-18.**

2473 Said title is further amended by revising subsection (f) of Code Section 15-12-40.1, relating  
 2474 to the state-wide master jury list, driver's license information, list of registered voters, and  
 2475 random list of persons to comprise venire, as follows:

2476 "(f) On and after July 1, 2015, upon request by the council, the Department of Community  
 2477 Supervision and, on and after July 1, 2014, upon request by the council, the Department  
 2478 of Corrections, the Georgia Crime Information Center division of the Georgia Bureau of  
 2479 Investigation, and the State Board of Pardons and Paroles shall provide to the council,  
 2480 without cost, a list of the names of all persons who have been convicted of a felony in state  
 2481 or federal court if the person has not had his or her civil rights restored. In addition to the  
 2482 convicted person's full name, the data shall include the person's address, including the  
 2483 county of residence and ZIP Code, date of birth, gender, and race if available. Such data  
 2484 shall be in electronic format as required by the council."

2485 **SECTION 5-19.**

2486 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 2487 amended by revising subsection (m) of Code Section 16-5-21, relating to aggravated assault,  
 2488 as follows:

2489 "(m) A person who knowingly commits the offense of aggravated assault upon an officer  
 2490 of the court while such officer is engaged in, or on account of the performance of, his or  
 2491 her official duties shall, upon conviction thereof, be punished by imprisonment for not less  
 2492 than five nor more than 20 years. As used in this subsection, the term 'officer of the court'  
 2493 means a judge, attorney, clerk of court, deputy clerk of court, court reporter, court  
 2494 interpreter, ~~or probation officer~~ community supervision officer, county or Department of  
 2495 Juvenile Justice juvenile probation officer, or probation officer serving pursuant to Article  
 2496 6 of Chapter 8 of Title 42."

2497 **SECTION 5-20.**

2498 Said title is further amended by revising paragraph (2) of subsection (b) of Code Section  
 2499 16-6-5.1, relating to sexual assault by persons with supervisory or disciplinary authority,  
 2500 sexual assault by practitioner of psychotherapy against patient, consent not a defense, and  
 2501 penalty upon conviction for sexual assault, as follows:

2502 "(2) Is an employee or agent of any ~~probation or parole office~~ community supervision  
 2503 office, county juvenile probation office, Department of Juvenile Justice juvenile  
 2504 probation office, or probation office under Article 6 of Chapter 8 of Title 42 and engages  
 2505 in sexual contact with such other individual who the actor knew or should have known  
 2506 is a probationer or parolee under the supervision of the ~~same probation or parole~~ such  
 2507 office;"

2508 **SECTION 5-21.**

2509 Said title is further amended by revising subsection (a) of Code Section 16-6-25, relating to  
 2510 harboring, concealing, or withholding information concerning a sexual offender and  
 2511 penalties, as follows:

2512 "(a) As used in this Code section, the term 'law enforcement unit' means any agency,  
 2513 organ, or department of this state, or a subdivision or municipality thereof, whose primary  
 2514 functions include the enforcement of criminal or traffic laws; the preservation of public  
 2515 order; the protection of life and property; or the prevention, detection, or investigation of  
 2516 crime. Such term shall also include the Department of Corrections, the Department of  
 2517 Community Supervision, and the State Board of Pardons and Paroles."

2518 **SECTION 5-22.**

2519 Said title is further amended by revising subsection (b) of Code Section 16-10-24, relating  
 2520 to obstructing or hindering law enforcement officers, as follows:

2521 "(b) Whoever knowingly and willfully resists, obstructs, or opposes any law enforcement  
 2522 officer, prison guard, correctional officer, ~~probation supervisor, parole supervisor~~  
 2523 community supervision officer, county or Department of Juvenile Justice juvenile  
 2524 probation officer, probation officer serving pursuant to Article 6 of Chapter 8 of Title 42,  
 2525 or conservation ranger in the lawful discharge of his or her official duties by offering or  
 2526 doing violence to the person of such officer or legally authorized person is guilty of a  
 2527 felony and shall, upon conviction thereof, be punished by imprisonment for not less than  
 2528 one nor more than five years."

2529 **SECTION 5-23.**

2530 Said title is further amended by revising subsection (b) of Code Section 16-10-33, relating  
 2531 to removal or attempted removal of weapon from public official and punishment, as follows:

2532 "(b) It shall be unlawful for any person knowingly to remove or attempt to remove a  
 2533 firearm, chemical spray, or baton from the possession of another person if:

- 2534 (1) The other person is lawfully acting within the course and scope of employment; and  
 2535 (2) The person has knowledge or reason to know that the other person is employed as:

- 2536 (A) A peace officer as defined in paragraph (8) of Code Section 35-8-2;
- 2537 (B) ~~A probation officer, or other~~ An employee with the power of arrest; by the
- 2538 Department of Corrections;
- 2539 (C) ~~A parole supervisor, or other~~ An employee with the power of arrest; by the State
- 2540 Board of Pardons and Paroles;
- 2541 (D) A community supervision officer or other employee with the power of arrest by
- 2542 the Department of Community Supervision;
- 2543 ~~(D)~~(E) A jail officer or guard by a county or municipality and has the responsibility of
- 2544 supervising inmates who are confined in a county or municipal jail or other detention
- 2545 facility; or
- 2546 ~~(E)~~(F) A juvenile correctional officer by the Department of Juvenile Justice and has the
- 2547 primary responsibility for the supervision and control of youth confined in such
- 2548 department's programs and facilities."

2549 **SECTION 5-24.**

2550 Said title is further amended by revising subsection (b) of Code Section 16-10-34, relating

2551 to the use of laser devices against law enforcement officers, as follows:

2552 "(b) It shall be unlawful for any person to knowingly and intentionally project upon a law

2553 enforcement officer any laser device without such officer's permission if:

- 2554 (1) The law enforcement officer is lawfully acting within the course and scope of
- 2555 employment; and
- 2556 (2) The person has knowledge or reason to know that the law enforcement officer is
- 2557 employed as:

- 2558 (A) A peace officer as defined in paragraph (8) of Code Section 35-8-2;
- 2559 (B) An ~~A probation officer, or other~~ employee with the power of arrest; by the
- 2560 Department of Corrections;
- 2561 (C) An ~~A parole supervisor, or other~~ employee with the power of arrest; by the State
- 2562 Board of Pardons and Paroles;
- 2563 (D) A community supervision officer or other employee with the power of arrest by
- 2564 the Department of Community Supervision;
- 2565 ~~(D)~~(E) A jail officer or guard by a county or municipality and has the responsibility of
- 2566 supervising inmates who are confined in a county or municipal jail or other detention
- 2567 facility; or
- 2568 ~~(E)~~(F) A juvenile correctional officer or juvenile probation officer by the Department
- 2569 of Juvenile Justice and has the primary responsibility for the supervision and control
- 2570 of youth confined in such department's programs and facilities."

**SECTION 5-25.**

2571  
 2572 Said title is further amended by revising subsection (b) of Code Section 16-10-97, relating  
 2573 to intimidation or injury of juror, court officer, or law enforcement officer, as follows:

2574 "(b) As used in this Code section, the term 'any officer in or of any court' means a judge,  
 2575 attorney, clerk of court, deputy clerk of court, court reporter, ~~or probation officer~~  
 2576 community supervision officer, county or Department of Juvenile Justice juvenile  
 2577 probation officer, or probation officer serving pursuant to Article 6 of Chapter 8 of Title  
 2578 42."

**SECTION 5-26.**

2579  
 2580 Said title is further amended by revising subsection (d) of Code Section 16-11-37, relating  
 2581 to terroristic threats and acts and penalties, as follows:

2582 "(d) A person who commits or attempts to commit a terroristic threat or act with the intent  
 2583 to retaliate against any person for:

2584 (1) Attending a judicial or administrative proceeding as a witness, attorney, judge, clerk  
 2585 of court, deputy clerk of court, court reporter, ~~probation officer~~ community supervision  
 2586 officer, county or Department of Juvenile Justice juvenile probation officer, probation  
 2587 officer serving pursuant to Article 6 of Chapter 8 of Title 42, or party or producing any  
 2588 record, document, or other object in a judicial or official proceeding; or

2589 (2) Providing to a law enforcement officer, ~~adult or juvenile probation officer~~ community  
 2590 supervision officer, county or Department of Juvenile Justice juvenile probation officer,  
 2591 probation officer serving pursuant to Article 6 of Chapter 8 of Title 42, prosecuting  
 2592 attorney, or judge any information relating to the commission or possible commission of  
 2593 an offense under the laws of this state or of the United States or a violation of conditions  
 2594 of bail, pretrial release, probation, or parole

2595 shall be guilty of the offense of a terroristic threat or act and, upon conviction thereof, shall  
 2596 be punished, for a terroristic threat, by imprisonment for not less than five nor more than  
 2597 ten years or by a fine of not less than \$50,000.00, or both, and, for a terroristic act, by  
 2598 imprisonment for not less than five nor more than 20 years or by a fine of not less than  
 2599 \$100,000.00, or both."

**SECTION 5-27.**

2600  
 2601 Said title is further amended by revising paragraphs (5) and (12) of subsection (c) of Code  
 2602 Section 16-11-127.1, relating to carrying weapons within school safety zones, at school  
 2603 functions, or on a bus or other transportation furnished by a school, as follows:

2604 "(5) The following persons, when acting in the performance of their official duties or  
 2605 when en route to or from their official duties:

- 2606 (A) A peace officer as defined by Code Section 35-8-2;
- 2607 (B) A law enforcement officer of the United States government;
- 2608 (C) A prosecuting attorney of this state or of the United States;
- 2609 (D) An employee of the Georgia Department of Corrections or a correctional facility
- 2610 operated by a political subdivision of this state or the United States who is authorized
- 2611 by the head of such department or correctional agency or facility to carry a firearm;
- 2612 (E) An employee of the Department of Community Supervision who is authorized by
- 2613 the commissioner of community supervision to carry a firearm;
- 2614 ~~(E)~~(F) A person employed as a campus police officer or school security officer who
- 2615 is authorized to carry a weapon in accordance with Chapter 8 of Title 20; and
- 2616 ~~(F)~~(G) Medical examiners, coroners, and their investigators who are employed by the
- 2617 state or any political subdivision thereof;"
- 2618 "(12) Community supervision officers ~~Probation supervisors~~ employed by and under the
- 2619 authority of the Department of ~~Corrections pursuant to Article 2 of Chapter 8 of Title 42,~~
- 2620 ~~known as the 'State-wide Probation Act,'~~ Community Supervision when specifically
- 2621 designated and authorized in writing by the ~~director of the Division of Probation~~
- 2622 commissioner of community supervision;"

#### 2623 SECTION 5-28.

2624 Said title is further amended by revising paragraph (9) of subsection (a) of Code Section

2625 16-11-130, relating to exemptions from Code Sections 16-11-126 through 16-11-127.2, as

2626 follows:

2627 "(9) Community supervision ~~Chief probation officers, probation officers, intensive~~

2628 ~~probation officers, and surveillance~~ officers employed by and under the authority of the

2629 Department of ~~Corrections pursuant to Article 2 of Chapter 8 of Title 42, known as the~~

2630 ~~'State-wide Probation Act,'~~ Community Supervision when specifically designated and

2631 authorized in writing by the ~~director of Division of Probation~~ commissioner of

2632 community supervision;"

#### 2633 SECTION 5-29.

2634 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is

2635 amended by revising subsection (d) and paragraph (1) of subsection (h) of Code Section

2636 17-6-1.1, relating to electronic pretrial release and monitoring program for defendants,

2637 requirements, procedures, and fees, as follows:

2638 "(d) A defendant may not be released to, or remain in, an electronic pretrial release and

2639 monitoring program ~~who~~ if such defendant has any other outstanding warrants, accusations,

2640 indictments, holds, or incarceration orders from any other court, law enforcement agency,

2641 ~~or probation or parole officer~~ community supervision officer, county or Department of  
 2642 Juvenile Justice juvenile probation officer, or probation officer serving pursuant to Article  
 2643 6 of Chapter 8 of Title 42 that require the posting of bond or further adjudication."

2644 "(h)(1) As an additional condition of electronic pretrial release and monitoring, a  
 2645 defendant authorized to participate in such program by the court shall pay a reasonable,  
 2646 nonrefundable fee for program enrollment, equipment use, and monitoring to the provider  
 2647 of such program. If a bonding company, bonding agent, or probation service provider is  
 2648 the provider, the fees earned in the capacity of being such a provider shall be in addition  
 2649 to the fees allowed in Code Sections 17-6-30, 42-8-34, and ~~42-8-100~~ 42-8-102."

### 2650 SECTION 5-30.

2651 Said title is further amended by revising paragraphs (2), (5), and (7) of subsection (a) and  
 2652 subsection (d) of Code Section 17-10-1, relating to fixing of sentence, suspension or  
 2653 probation of sentence, change in sentence, eligibility for parole, prohibited modifications,  
 2654 and exceptions, as follows:

2655 "(2) Active probation supervision shall terminate in all cases no later than two years from  
 2656 the commencement of active probation supervision unless specially extended or  
 2657 reinstated by the sentencing court upon notice and hearing and for good cause shown;  
 2658 provided, however, that in those cases involving the collection of fines, restitution, or  
 2659 other funds, the period of active probation supervision shall remain in effect for so long  
 2660 as any such obligation is outstanding, or until termination of the sentence, whichever first  
 2661 occurs, and for those cases involving a conviction under Chapter 15 of Title 16, the  
 2662 'Georgia Street Gang Terrorism and Prevention Act,' the period of active probation  
 2663 supervision shall remain in effect until the termination of the sentence, but shall not  
 2664 exceed five years unless as otherwise provided in this paragraph. Supervision Active  
 2665 ~~probation supervision~~ shall not be required for defendants sentenced to probation while  
 2666 the defendant is in the legal custody of the Department of Corrections or the State Board  
 2667 of Pardons and Paroles."

2668 "(5)(A) When a defendant has been sentenced to probation, the court shall retain  
 2669 jurisdiction throughout the period of the probated sentence as provided for in subsection  
 2670 (g) of Code Section 42-8-34. Without limiting the generality of the foregoing, the court  
 2671 may shorten the period of active probation supervision or unsupervised probation on  
 2672 motion of the defendant or on its own motion, or upon the request of a ~~probation~~  
 2673 ~~supervisor~~ community supervision officer, if the court determines that probation is no  
 2674 longer necessary or appropriate for the ends of justice, the protection of society, and the  
 2675 rehabilitation of the defendant. Prior to entering any order for shortening a period of  
 2676 probation, the court shall afford notice to the victim or victims of all sex related

2677 offenses or violent offenses resulting in serious bodily injury or death and, upon request  
 2678 of the victim or victims so notified, shall afford notice and an opportunity for hearing  
 2679 to the defendant and the prosecuting attorney.

2680 (B) The Department of ~~Corrections~~ Community Supervision shall establish a form  
 2681 document which shall include the elements set forth in this Code section concerning  
 2682 notification of victims and shall make copies of such form available to prosecuting  
 2683 attorneys in this state. When requested by the victim, the form document shall be  
 2684 provided to the victim by the prosecuting attorney. The form shall include the address  
 2685 of the ~~probation~~ community supervision office having jurisdiction over the case and  
 2686 contain a statement that the victim must maintain a copy of his or her address with the  
 2687 ~~probation~~ community supervision office and must notify the office of any change of  
 2688 address in order to maintain eligibility for notification by the Department of ~~Corrections~~  
 2689 Community Supervision as required in this Code section."

2690 "(7) As used in this subsection, the term:

2691 (A) 'Active probation supervision' means the period of a probated sentence in which  
 2692 a probationer actively reports to his or her ~~probation supervisor~~ community supervision  
 2693 officer or is otherwise under the direct supervision of a ~~probation supervisor~~ community  
 2694 supervision officer.

2695 (B) 'Unsupervised probation' means the period of a probated sentence that follows  
 2696 active probation supervision in which:

2697 (i) All of the conditions and limitations imposed by the court remain intact;

2698 (ii) A probationer may have reduced reporting requirements; and

2699 (iii) A ~~probation supervisor~~ community supervision officer shall not actively  
 2700 supervise such probationer."

2701 "(d) In any case involving a misdemeanor or a felony in which the defendant has been  
 2702 punished in whole or in part by a fine, the sentencing judge shall be authorized to allow the  
 2703 defendant to satisfy such fine through community service as defined in ~~paragraph (2) of~~  
 2704 Code Section ~~42-8-70~~ 42-3-50. One hour of community service shall equal the dollar  
 2705 amount of one hour of paid labor at the minimum wage under the federal Fair Labor  
 2706 Standards Act of 1938, as now or hereafter amended, unless otherwise specified by the  
 2707 sentencing judge. A defendant shall be required to serve the number of hours in  
 2708 community service which equals the number derived by dividing the amount of the fine by  
 2709 the federal minimum hourly wage or by the amount specified by the sentencing judge.  
 2710 Prior to or subsequent to sentencing, a defendant may request the court that all or any  
 2711 portion of a fine may be satisfied under this subsection."

**SECTION 5-31.**

2712

2713 Said title is further amended by adding a new Code section to read as follows:

2714 "17-10-1.4.2715 (a) As used in this Code section, the term 'split sentence' means any felony sentence that  
2716 includes a term of imprisonment followed by a term of probation.2717 (b) In any case where a judge on or after July 1, 2015, sentences a defendant to a split  
2718 sentence, post-incarceration supervision of the defendant shall be conducted exclusively  
2719 by the Department of Community Supervision and not by the State Board of Pardons and  
2720 Paroles, regardless of whether the defendant has served the full period of incarceration  
2721 ordered in the sentence or has been released prior to the full period of incarceration by  
2722 parole, conditional release, or other action of the State Board of Pardons and Paroles."**SECTION 5-32.**

2723

2724 Said title is further amended by revising subsection (f) of Code Section 17-10-3, relating to  
2725 punishment for misdemeanors generally, as follows:2726 "(f) The Department of ~~Corrections~~ Community Supervision shall lack jurisdiction to  
2727 supervise misdemeanor offenders, except when the sentence is made concurrent to a  
2728 probated felony sentence or if directed by court order. Except as provided in this  
2729 subsection, the Department of Corrections shall lack jurisdiction to confine misdemeanor  
2730 offenders."**SECTION 5-33.**

2731

2732 Said title is further amended by revising subsections (c) and (d) of Code Section 17-10-9.1,  
2733 relating to voluntary surrender to county jail or correctional institution and release of  
2734 defendant, as follows:2735 "(c) When a defendant submits a request to the sentencing judge to be allowed to surrender  
2736 voluntarily to a county jail or a correctional facility, the judge may consider the request and  
2737 if, taking into the consideration the crime for which the defendant is being sentenced, the  
2738 history of the defendant, and any other factors which may aid in the decision, the judge  
2739 determines that the granting of the request will pose no threat to society, the defendant shall  
2740 be remanded to the supervision of a ~~probation officer~~ community supervision officer,  
2741 ~~county or Department of Juvenile Justice juvenile probation officer,~~ or probation officer  
2742 serving pursuant to Article 6 of Chapter 8 of Title 42 by the judge and ordered to surrender  
2743 voluntarily to a county jail designated by the court or to a correctional institution as  
2744 thereafter designated by the Department of Corrections. The surrender date shall be a date  
2745 thereafter specified as provided in subsection (d) of this Code section. The sentence of any  
2746 defendant who is released pursuant to this Code section shall not begin to run until such

2747 person surrenders to the facility designated by the court or by the department, provided that  
 2748 such person ~~will~~ shall receive credit toward his or her sentence for time spent in  
 2749 confinement awaiting trial as provided in Code Section 17-10-11.

2750 (d) In the event the defendant is ordered to surrender voluntarily to a county jail, the court  
 2751 shall designate the date on which the defendant shall surrender, which ~~date~~ shall not be  
 2752 more than 120 days after the date of conviction. When the sentencing judge issues an order  
 2753 requiring a defendant to surrender voluntarily to a correctional institution, the Department  
 2754 of Corrections shall authorize the commitment and designate the correctional institution  
 2755 to which the defendant shall report and the date on which the defendant is to report, which  
 2756 date shall not be more than 120 days after the date of conviction. Upon such designation,  
 2757 the department shall notify the ~~supervising probation officer~~ community supervision  
 2758 officer, county or Department of Juvenile Justice juvenile probation officer, or probation  
 2759 officer serving pursuant to Article 6 of Chapter 8 of Title 42, as applicable, who shall  
 2760 notify the defendant accordingly. Subsistence and transportation expenses en route to the  
 2761 correctional institution shall be borne by the defendant."

#### 2762 SECTION 5-34.

2763 Said title is further amended by revising subsections (a) through (c) of Code Section  
 2764 17-12-51, relating to repayment of attorney's fees as condition of probation, as follows:

2765 "(a) When a defendant who is represented by a public defender, who is paid in part or in  
 2766 whole by a county, enters a plea of nolo contendere, first offender, or guilty or is otherwise  
 2767 convicted, the court may impose as a condition of probation repayment of all or a portion  
 2768 of the cost for providing legal representation and other expenses of the defense if the  
 2769 payment does not impose a financial hardship upon the defendant or the defendant's  
 2770 dependent or dependents. The defendant shall make the payment through the ~~probation~~  
 2771 ~~department~~ community supervision officer to the county.

2772 (b) When a defendant who is represented by a public defender, who is paid in part or in  
 2773 whole by a municipality, enters a plea of nolo contendere, first offender, or guilty or is  
 2774 otherwise convicted, the court may impose as a condition of probation repayment of all or  
 2775 a portion of the cost for providing legal representation and other expenses of the defense  
 2776 if the payment does not impose a financial hardship upon the defendant or the defendant's  
 2777 dependent or dependents. The defendant shall make the payment through the ~~probation~~  
 2778 ~~department~~ community supervision officer to the municipality.

2779 (c) If a defendant who is represented by a public defender, who is paid for entirely by the  
 2780 state, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted,  
 2781 the court may impose as a condition of probation repayment of all or a portion of the cost  
 2782 for providing legal representation and other costs of the defense if the payment does not

2783 impose a financial hardship upon such defendant or such defendant's dependent or  
 2784 dependents. Such defendant shall make such payment through the ~~probation department~~  
 2785 community supervision officer to the Georgia Public Defender Standards Council for  
 2786 payment to the general fund of the state treasury."

2787 **SECTION 5-35.**

2788 Said title is further amended by revising paragraph (4) of Code Section 17-14-2, relating to  
 2789 definitions relative to restitution, as follows:

2790 "(4) 'Ordering authority' means:

- 2791 (A) A court of competent jurisdiction;
- 2792 (B) The State Board of Pardons and Paroles;
- 2793 (C) The Department of Corrections;
- 2794 (D) The Department of Juvenile Justice; ~~or~~
- 2795 (E) The Department of Community Supervision; or
- 2796 (F) Any combination thereof, as is required by the context."

2797 **SECTION 5-36.**

2798 Said title is further amended by revising Code Section 17-14-8, relating to apportionment of  
 2799 payments for fines and restitution and payment to victims, as follows:

2800 "17-14-8.

2801 (a) In any case in which a court sentences an offender to pay restitution and a fine, if the  
 2802 court permits the offender to pay such restitution and fine in other than a lump sum, the  
 2803 clerk of any superior court of this state, ~~probation officer or parole officer~~ community  
 2804 supervision officer, county or Department of Juvenile Justice juvenile probation officer,  
 2805 probation officer serving pursuant to Article 6 of Chapter 8 of Title 42, or other official  
 2806 who receives such partial payments shall apply not less than one-half of each payment to  
 2807 the restitution before paying any portion of such fine or any forfeitures, costs, fees, or  
 2808 surcharges provided for by law to any agency, department, commission, committee,  
 2809 authority, board, or bureau of state or local government.

2810 (b) The clerk of any court of this state, ~~probation officer or parole officer~~ community  
 2811 supervision officer, county or Department of Juvenile Justice juvenile probation officer,  
 2812 probation officer serving pursuant to Article 6 of Chapter 8 of Title 42, or other official  
 2813 who receives partial payments for restitution shall pay the restitution amount to the victim  
 2814 as provided in the restitution order not later than the last day of each month, provided that  
 2815 the amount exceeds \$100.00. If the amount does not exceed \$100.00, the clerk of any court  
 2816 of this state, ~~probation officer or parole officer~~ community supervision officer, county or  
 2817 Department of Juvenile Justice juvenile probation officer, probation officer serving

2818 pursuant to Article 6 of Chapter 8 of Title 42, or other official may allow the amount of  
 2819 restitution to accumulate until such time as it exceeds \$100.00 or until the end of the next  
 2820 calendar quarter, whichever occurs first."

2821 **SECTION 5-37.**

2822 Said title is further amended by revising subsection (c) of Code Section 17-14-14, relating  
 2823 to restitution payments, wage assignments, review of compliance, and interest, as follows:

2824 "(c) Until such time as the restitution has been paid or the sentence has been completed,  
 2825 the clerk of court or the ~~probation or parole officer~~ community supervision officer, county  
 2826 or Department of Juvenile Justice juvenile probation officer, or probation officer serving  
 2827 pursuant to Article 6 of Chapter 8 of Title 42 assigned to the case, whoever is responsible  
 2828 for collecting restitution, shall review the case not less frequently than twice yearly to  
 2829 ensure that restitution is being paid as ordered. If the restitution was ordered to be made  
 2830 within a specific period of time, the case shall be reviewed at the end of the specific period  
 2831 of time to determine if the restitution has been paid in full. The final review shall be  
 2832 conducted before the sentence or probationary or parole period expires. If it is determined  
 2833 at any review that restitution is not being paid as ordered, a written report of the violation  
 2834 shall be filed with the court on a form prescribed by the Council of Superior Court Clerks  
 2835 of Georgia."

2836 **SECTION 5-38.**

2837 Said title is further amended by revising Code Section 17-14-16, relating to provision of  
 2838 copies of restitution orders to the Department of Corrections or the Department of Juvenile  
 2839 Justice on remand of sentence, as follows:

2840 "17-14-16.

2841 If an offender who is ordered to pay restitution under this article is remanded to the  
 2842 jurisdiction of the Department of Corrections or the Department of Juvenile Justice, the  
 2843 court shall ~~provide~~ transmit a copy of the restitution order to such department and to the  
 2844 Department of Community Supervision when the ~~offender is remanded to such~~  
 2845 ~~department's jurisdiction~~ order is issued."

2846 **SECTION 5-39.**

2847 Said title is further amended by revising subsections (e) and (f) of Code Section 17-15-13,  
 2848 relating to debt to state created, payment as condition of probation or parole, and payment  
 2849 into fund, as follows:

2850 "(e) Payments authorized or required under this Code section shall be paid into the fund.

2851 The board shall coordinate the development of policies and procedures for the State Board

2852 of Pardons and Paroles, the Department of Community Supervision, and the Administrative  
 2853 Office of the Courts to assure that restitution programs are administered in an effective  
 2854 manner to increase payments into the fund.

2855 (f) In every case where an individual is serving under active probation supervision and  
 2856 paying a supervision fee, \$9.00 per month shall be added to any supervision fee collected  
 2857 by any entity authorized to collect such fees and shall be paid into the fund. This  
 2858 subsection shall apply to probationers supervised under ~~either Code Section 42-8-20 or~~  
 2859 ~~42-8-100~~ by community supervision officers or private probation officers or probation  
 2860 officers pursuant to Article 6 of Chapter 8 of Title 42. The probation supervising entity  
 2861 shall collect and forward the \$9.00 fee to the board by the end of each month."

#### 2862 **SECTION 5-40.**

2863 Said title is further amended by revising paragraph (5) of Code Section 17-17-3, relating to  
 2864 definitions regarding the "Crime Victims' Bill of Rights," as follows:

2865 "(5) 'Custodial authority' means a warden, sheriff, jailer, deputy sheriff, police officer,  
 2866 correctional officer, officer or employee of the Department of Corrections or the  
 2867 Department of Juvenile Justice, community supervision officer or employee of the  
 2868 Department of Community Supervision, or any other law enforcement officer having  
 2869 actual custody of the accused."

#### 2870 **SECTION 5-41.**

2871 Said title is further amended by revising paragraph (2) of subsection (c) of Code Section  
 2872 17-17-8, relating to notification by prosecuting attorney of legal procedures and of victim's  
 2873 rights in relation thereto and victims seeking restitution, as follows:

2874 "(2) The prosecuting attorney shall transmit the information collected in paragraph (1)  
 2875 of this subsection to the Department of Corrections, Department of Community  
 2876 Supervision, Department of Juvenile Justice, or the State Board of Pardons and Paroles,  
 2877 as applicable, if an order of restitution is entered."

#### 2878 **SECTION 5-42.**

2879 Said title is further amended by revising subsection (a) of Code Section 17-17-14, relating  
 2880 to victim required to provide current address and phone number to notifying parties, as  
 2881 follows:

2882 "(a) It is the right and responsibility of the victim who desires notification under this  
 2883 chapter or under any other notification statute to keep the following informed of the  
 2884 victim's current address and phone number:

2885 (1) The investigating law enforcement agency;

- 2886 (2) The prosecuting attorney, until final disposition or completion of the appellate and  
 2887 post-conviction process, whichever occurs later;
- 2888 (3) As directed by the prosecuting attorney, the sheriff if the accused is in the sheriff's  
 2889 custody for pretrial, trial, or post-conviction proceedings; the Department of Corrections  
 2890 if the accused is in the custody of the state; or any county correctional facility if the  
 2891 defendant is sentenced to serve time in a facility which is not a state facility; ~~and~~
- 2892 (4) The Department of Community Supervision; and
- 2893 ~~(4)~~(5) The State Board of Pardons and Paroles."

2894 **SECTION 5-43.**

2895 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is  
 2896 amended by revising subsection (a) of Code Section 19-7-52, relating to whom support  
 2897 payments made and enforcement and modification of orders, as follows:

2898 "(a) The court may order that support payments be made to the mother or other interested  
 2899 party, the child support receiver, the prosecuting attorney, the ~~probation~~ community  
 2900 supervision officer, or the clerk of court, provided that, in those cases where the action has  
 2901 been brought by the Department of Human Services on behalf of a child, the support  
 2902 payment shall be made to the Department of Human Services for distribution or to the child  
 2903 support receiver if the Department of Human Services so requests."

2904 **SECTION 5-44.**

2905 Said title is further amended by revising Code Section 19-11-21, relating to payment of child  
 2906 support to the Department of Human Services, as follows:

2907 "19-11-21.

2908 Payment of support pursuant to an administrative determination or a voluntary agreement  
 2909 shall be made to the department. In non-TANF cases, where the department deems it  
 2910 appropriate, it may authorize distribution of the actual payment by other individuals,  
 2911 agencies, or entities and utilize certification schedules reflecting such payments or  
 2912 distributions which the department requires, in accordance with the federal Social Security  
 2913 Act, as amended. Child support which is ordered by a court pursuant to a divorce decree  
 2914 or in any other proceeding in which the responsible parent is required to pay support for  
 2915 his or her child or children, whether the proceeding is civil or criminal, shall be paid by the  
 2916 responsible parent, the clerk of court, the juvenile probation officer, the community  
 2917 supervision officer, the child support receiver, or a similar official who is collecting support  
 2918 to the department upon the department's certification that the child is a recipient of public  
 2919 assistance or upon the department's certification that an application has been filed with the

2920 department for enforcement of support in accordance with the provisions of the federal  
2921 Social Security Act."

2922 **SECTION 5-45.**

2923 Said title is further amended by revising Code Section 19-11-67, relating to transmittal of  
2924 payments to court of initiating state and certified statement of payments made by respondent  
2925 relative to child support, as follows:

2926 "19-11-67.

2927 A court of this state, when acting as a responding state, shall have the following duties,  
2928 which may be carried out through the ~~probation department of~~ community supervision  
2929 office, juvenile probation office, or probation office under the authority of Article 6 of  
2930 Chapter 8 of Title 42 for the court:

- 2931 (1) Upon the receipt of a payment made by the respondent pursuant to any order of the  
2932 court or otherwise, to transmit the same forthwith to the court of the initiating state; and  
2933 (2) Upon request, to furnish to the court of the initiating state a certified statement of all  
2934 payments made by the respondent."

2935 **SECTION 5-46.**

2936 Said title is further amended by revising Code Section 19-13-10, relating to definitions  
2937 relative to family violence intervention, as follows:

2938 "19-13-10.

2939 As used in this article, the term:

- 2940 (1) 'Commission' means the State Commission on Family Violence.  
2941 (2) 'Commissioner' means the commissioner of ~~corrections~~ community supervision.  
2942 (3) 'Department' means the Department of ~~Corrections~~ Community Supervision.  
2943 (4) 'Family or household members' means past or present spouses, persons who are  
2944 parents of the same child, or other persons living or formerly living in the same  
2945 household.  
2946 (5) 'Family violence' means the commission of the offenses of battery, simple battery,  
2947 simple assault, assault, stalking, criminal damage to property, or criminal trespass  
2948 between family or household members.  
2949 (6) 'Family violence intervention program' or 'program' means any program that is  
2950 certified by the Department of ~~Corrections~~ Community Supervision pursuant to Code  
2951 Section 19-13-14 and designed to rehabilitate family violence offenders. ~~The~~ Such term  
2952 ~~includes shall include, but is shall not be~~ limited to, batterer intervention programs, anger  
2953 management programs, anger counseling, family problem resolution, and violence  
2954 therapy."

**SECTION 5-47.**

2955  
 2956 Said title is further amended by revising Code Section 19-13-31, relating to creation of the  
 2957 State Commission on Family Violence, comprehensive state plan for ending family violence,  
 2958 and establishment of community task forces, as follows:

2959 "19-13-31.

2960 There is created a State Commission on Family Violence which shall be responsible for  
 2961 developing a comprehensive state plan for ending family violence. This plan shall include  
 2962 the initiation, coordination, and oversight of the implementation of family violence laws  
 2963 and the establishment in each judicial circuit of a Community Task Force on Family  
 2964 Violence. These task forces shall be supported by and work in collaboration with the state  
 2965 commission. The commission shall be assigned for administrative purposes only, as set  
 2966 out in Code Section 50-4-3, to the Department of ~~Corrections~~ Community Supervision."

**SECTION 5-48.**

2967  
 2968 Said title is further amended by revising subsection (a) of Code Section 19-13-32, relating  
 2969 to membership, terms, filling of vacancies, and officers regarding the State Commission on  
 2970 Family Violence, as follows:

2971 "(a) The State Commission on Family Violence shall consist of 37 members:

2972 (1) Three ex officio members shall be the director of the Division of Family and Children  
 2973 Services of the Department of Human Services, the director of Women's Health Services  
 2974 in the Department of Public Health, and the Attorney General;

2975 (2) Three members shall be members of the House of Representatives and shall be  
 2976 appointed by the Speaker of the House of Representatives;

2977 (3) Three members shall be members of the Senate and shall be appointed by the  
 2978 President of the Senate;

2979 (4) The remaining members shall be appointed by the Governor as follows:

2980 (A) One judge from each judicial administrative district;

2981 (B) Three advocates for battered women recommended by groups which have  
 2982 addressed the problem of family violence;

2983 (C) One person with expertise and interest regarding family violence involving persons  
 2984 who are 60 years of age or older;

2985 (D) One person with expertise and interest regarding family violence involving  
 2986 children; and

2987 (E) One representative from each of the following:

2988 (i) The Administrative Office of the Courts;

2989 (ii) The Georgia Peace Officer Standards and Training Council;

2990 (iii) The Georgia Association of Chiefs of Police;

- 2991 (iv) The District Attorneys Association of Georgia;  
 2992 (v) The State Board of Pardons and Paroles;  
 2993 (vi) The ~~probation system~~ Department of Community Supervision;  
 2994 (vii) The Georgia Sheriffs' Association;  
 2995 (viii) The Criminal Justice Coordinating Council;  
 2996 (ix) The Solicitors Association of Georgia;  
 2997 (x) The legal aid community;  
 2998 (xi) The academic community;  
 2999 (xii) Men Stopping Violence; and  
 3000 (xiii) A former victim of domestic violence."

3001 **SECTION 5-49.**

3002 Said title is further amended by revising subsection (a) of Code Section 19-13-34, relating  
 3003 to powers and duties of the State Commission on Family Violence, as follows:

3004 "(a) The commission shall have the following duties:

- 3005 (1) To study and evaluate the needs, priorities, programs, policies, and accessibility of  
 3006 services relating to family violence throughout ~~the~~ this state;  
 3007 (2) To evaluate and monitor the adequacy and effectiveness of existing family violence  
 3008 laws, including the response of the present civil and criminal legal systems;  
 3009 (3) To initiate and coordinate the development of family violence legislation, as  
 3010 necessary;  
 3011 (4) To monitor the implementation and enforcement of laws, regulations, and protocols  
 3012 concerning family violence;  
 3013 (5) To make recommendations for education and training to ensure that all citizens and  
 3014 service providers, including but not limited to members of the judiciary, law enforcement  
 3015 personnel, and prosecuting attorneys, are aware of needs relating to family violence and  
 3016 of services available;  
 3017 (6) To develop models for community task forces on family violence;  
 3018 (7) To provide training and continuing education on the dynamics of family violence to  
 3019 members of the commission where appropriate and necessary;  
 3020 (8) To report annually to the General Assembly during its existence; and  
 3021 (9) To develop standards to be utilized by the Department of ~~Corrections~~ Community  
 3022 Supervision in the certification and regulation of family violence intervention programs."

3023 **SECTION 5-50.**

3024 Said title is further amended by revising paragraph (4) of Code Section 19-13-51, relating  
3025 to definitions relative to the "Family Violence and Stalking Protective Order Registry Act,"  
3026 as follows:

3027 "(4) 'Law enforcement officer' means any agent or officer of this state, or a political  
3028 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested  
3029 either expressly by law or by virtue of public employment or service with authority to  
3030 enforce the criminal or traffic laws and whose duties include the preservation of public  
3031 order, the protection of life and property, or the prevention, detection, or investigation of  
3032 crime. Such term also includes the following: state or local officer, sheriff, deputy  
3033 sheriff, dispatcher, 9-1-1 operator, police officer, prosecuting attorney, member of the  
3034 State Board of Pardons and Paroles, a hearing officer ~~and parole officer~~ of the State  
3035 Board of Pardons and Paroles, and a ~~probation~~ community supervision officer of the  
3036 Department of ~~Corrections~~ Community Supervision."

3037 **SECTION 5-51.**

3038 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
3039 revising Code Section 20-2-699, relating to disposition of children taken into custody, as  
3040 follows:

3041 "20-2-699.

3042 Any person assuming temporary custody of a child pursuant to Code Section 20-2-698  
3043 shall immediately deliver the child either to the parent, guardian, or other person having  
3044 control or charge of the child or to the school from which the child is absent, or if the child  
3045 is found to have been adjudged a delinquent child or a child in need of services, the person  
3046 shall cause the child to be brought before the juvenile probation officer or community  
3047 supervision officer of the county having jurisdiction over such child."

3048 **SECTION 5-52.**

3049 Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended by  
3050 revising subsection (a) of Code Section 21-2-231, relating to lists of persons convicted of  
3051 felonies, persons identified as noncitizens, persons declared mentally incompetent, and  
3052 deceased persons provided to Secretary of State and Council of Superior Court Clerks,  
3053 removal of names from list of electors, obtain information about persons who died, timing,  
3054 and list of inactive voters provided to Council of Superior Court Clerks, as follows:

3055 "(a) Unless otherwise notified by the Secretary of State, the Georgia Crime Information  
3056 Center shall, on or before the tenth day of each month, prepare and transmit to the  
3057 Secretary of State and The Council of Superior Court Clerks of Georgia a complete list of

3058 all persons, including dates of birth, social security numbers, and other information as  
 3059 prescribed by the Secretary of State or The Council of Superior Court Clerks of Georgia,  
 3060 who were convicted of a felony in this state since the preceding reporting period. The  
 3061 Secretary of State or The Council of Superior Court Clerks of Georgia may, by agreement  
 3062 with the commissioner of corrections and the commissioner of community supervision,  
 3063 obtain criminal information relating to the conviction, sentencing, and completion of  
 3064 sentencing requirements of felonies. Additionally, the Secretary of State and The Council  
 3065 of Superior Court Clerks of Georgia shall be authorized to obtain such criminal information  
 3066 relating to Georgia electors convicted of a felony in another state, if such information is  
 3067 available."

### 3068 **SECTION 5-53.**

3069 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,  
 3070 is amended by revising paragraph (2) of Code Section 34-9-1, relating to definitions for  
 3071 workers' compensation, as follows:

3072 "(2) 'Employee' means every person in the service of another under any contract of hire  
 3073 or apprenticeship, written or implied, except a person whose employment is not in the  
 3074 usual course of the trade, business, occupation, or profession of the employer; and, except  
 3075 as otherwise provided in this chapter, minors are included even though working in  
 3076 violation of any child labor law or other similar statute; provided, however, that nothing  
 3077 contained in this chapter shall be construed as repealing or altering any such law or  
 3078 statute. Any reference to any employee who has been injured shall, if the employee dies,  
 3079 include such employee's legal representatives, dependents, and other persons to whom  
 3080 compensation may be payable pursuant to this chapter. All firefighters, law enforcement  
 3081 personnel, and personnel of emergency management or civil defense agencies, emergency  
 3082 medical services, and rescue organizations whose compensation is paid by the state or  
 3083 any county or municipality, regardless of the method of appointment, and all full-time  
 3084 county employees and employees of elected salaried county officials are specifically  
 3085 included in this definition. There shall also be included within such term any volunteer  
 3086 firefighter of any county or municipality of this state, but only for services rendered in  
 3087 such capacity which are not prohibited by Code Section 38-3-36 and only if the  
 3088 governing authority of the county or municipality for which such services are rendered  
 3089 shall provide by appropriate resolution for inclusion of such volunteer firefighters; any  
 3090 volunteer law enforcement personnel of any county or municipality of this state who are  
 3091 certified by the Georgia Peace Officer Standards and Training Council, for volunteer law  
 3092 enforcement services rendered in such capacity which are not prohibited by Code Section  
 3093 38-3-36 and only if the governing authority of the county or municipality for which such

3094 services are rendered shall provide by appropriate resolution for inclusion of such  
3095 volunteer law enforcement personnel; any person who is a volunteer member or worker  
3096 of an emergency management or civil defense organization, emergency medical service,  
3097 or rescue organization, whether governmental or not, of any county or municipality of  
3098 this state for volunteer services, which are not prohibited by Code Section 38-3-36,  
3099 rendered in such capacity and only if the governing authority of the county or  
3100 municipality for which such services are rendered shall provide by appropriate resolution  
3101 for inclusion of such volunteer members or workers; and any person certified by the  
3102 Department of Public Health or the Georgia Composite Medical Board and registered  
3103 with any county or municipality of this state as a medical first responder for any  
3104 volunteer first responder services rendered in such capacity, which are not prohibited by  
3105 Code Section 38-3-36 and only if the governing authority of the county or municipality  
3106 for which such services are rendered shall provide by appropriate resolution for inclusion  
3107 of such responders. The various elected county officers and elected members of the  
3108 governing authority of an individual county shall also be included in this definition, if the  
3109 governing authority of ~~said~~ such county shall provide therefor by appropriate resolution.  
3110 For the purposes of workers' compensation coverage, employees of county and district  
3111 health agencies established under Chapter 3 of Title 31 are deemed and shall be  
3112 considered employees of the State of Georgia and employees of community service  
3113 boards established under Chapter 2 of Title 37 shall be considered to be employees of the  
3114 state. For the purpose of workers' compensation coverage, members of the Georgia  
3115 National Guard and the State Defense Force serving on state active duty pursuant to an  
3116 order by the Governor are deemed and shall be considered to be employees of this state.  
3117 A person shall be an independent contractor and not an employee if such person has a  
3118 written contract as an independent contractor and if such person buys a product and  
3119 resells it, receiving no other compensation, or provides an agricultural service or such  
3120 person otherwise qualifies as an independent contractor. Notwithstanding the foregoing  
3121 provisions of this paragraph, any officer of a corporation may elect to be exempt from  
3122 coverage under this chapter by filing written certification of such election with the insurer  
3123 or, if there is no insurer, the State Board of Workers' Compensation as provided in Code  
3124 Section 34-9-2.1. For purposes of this chapter, an owner-operator as such term is defined  
3125 in Code Section 40-2-87 shall be deemed to be an independent contractor. Inmates or  
3126 persons participating in a work release program, community service program, or similar  
3127 program as part of the punishment for violation of a municipal ordinance pursuant to  
3128 Code Section 36-32-5 or a county ordinance or a state law shall not be deemed to be an  
3129 employee while participating in work or training or while going to and from the work site  
3130 or training site, unless such inmate or person is employed for private gain in violation of

3131 Code Section 42-1-5 or Code Section ~~42-8-70~~ 42-3-50 or unless the municipality or  
 3132 county had voluntarily established a policy, on or before January 1, 1993, to provide  
 3133 workers' compensation benefits to such individuals. Individuals who are parties to a  
 3134 franchise agreement as set out by the Federal Trade Commission franchise disclosure  
 3135 rule, 16 C.F.R. 436.1 through 436.11, shall not be deemed employees for purposes of this  
 3136 chapter."

3137 **SECTION 5-54.**

3138 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and  
 3139 agencies, is amended by revising subsections (b) and (g) of Code Section 35-3-36, relating  
 3140 to duties of state criminal justice agencies as to submission of fingerprints, photographs, and  
 3141 other identifying data to the Georgia Crime Information Center and responsibility for  
 3142 accuracy, as follows:

3143 "(b) It shall be the duty of all chiefs of police, sheriffs, prosecuting attorneys, courts,  
 3144 judges, ~~parole and probation officers~~ community supervision officers, county or department  
 3145 of Juvenile Justice juvenile probation officers, probation officers serving pursuant to  
 3146 Article 6 of Chapter 8 of Title 42, wardens, or other persons in charge of penal and  
 3147 correctional institutions in this state to furnish the center with any other data deemed  
 3148 necessary by the center to carry out its responsibilities under this article."

3149 "(g) All persons in charge of law enforcement agencies, all clerks of court, all municipal  
 3150 judges where they have no clerks, all magistrates, and all persons in charge of ~~state and~~  
 3151 ~~county probation and parole~~ community supervision, juvenile probation, or Article 6 of  
 3152 Chapter 8 of Title 42 probation offices shall supply the center with the information  
 3153 described in Code Section 35-3-33 on the basis of the forms and instructions to be supplied  
 3154 by the center."

3155 **SECTION 5-55.**

3156 Said title is further amended by revising subsection (a) of Code Section 35-6A-3, relating to  
 3157 membership, vacancies, and membership not bar to holding public office relative to the  
 3158 Criminal Justice Coordinating Council, as follows:

3159 "(a) The Criminal Justice Coordinating Council shall consist of ~~24~~ 26 members and shall  
 3160 be composed as follows:

3161 (1) The chairperson of the Georgia Peace Officer Standards and Training Council, the  
 3162 director of homeland security, the chairperson of the Judicial Council of Georgia, the  
 3163 chairperson of the Prosecuting Attorneys' Council of the State of Georgia, the  
 3164 commissioner of corrections, the chairperson of the Board of Corrections, the  
 3165 commissioner of community supervision, the chairperson of the Board of Community

3166 Supervision, the vice chairperson of the Board of Public Safety, the chairperson of the  
 3167 State Board of Pardons and Paroles, the State School Superintendent, the commissioner  
 3168 of community affairs, the president of the Council of Juvenile Court Judges, the  
 3169 chairperson of the Georgia Public Defender Standards Council, the chairperson of the  
 3170 Governor's Office for Children and Families, and the commissioner of juvenile justice or  
 3171 their designees shall be ex officio members of the council, as full voting members of the  
 3172 council by reason of their office; and

3173 (2) Ten members shall be appointed by the Governor for terms of four years, their initial  
 3174 appointments, however, being four for four-year terms, two for three-year terms, and four  
 3175 for two-year terms. Appointments shall be made so that there are always on the council  
 3176 the following persons: one county sheriff, one chief of police, one mayor, one county  
 3177 commissioner, one superior court judge, four individuals who shall be, by virtue of their  
 3178 training or experience, knowledgeable in the operations of the criminal justice system of  
 3179 this state, and one individual who shall be, by virtue of his or her training and experience,  
 3180 knowledgeable in the operations of the entire spectrum of crime victim assistance  
 3181 programs delivering services to victims of crime. No person shall serve beyond the time  
 3182 he or she holds the office or employment by reason of which he or she was initially  
 3183 eligible for appointment."

#### 3184 **SECTION 5-56.**

3185 Said title is further amended by revising paragraphs (7) and (8) of Code Section 35-8-2,  
 3186 relating to definitions relative to the employment and training of peace officers, as follows:

3187 "(7) 'Law enforcement unit' means:

3188 (A) Any agency, organ, or department of this state, a subdivision or municipality  
 3189 thereof, or a railroad whose primary functions include the enforcement of criminal or  
 3190 traffic laws, the preservation of public order, the protection of life and property, or the  
 3191 prevention, detection, or investigation of crime;

3192 (B) The Office of Permits and Enforcement of the Department of Transportation, the  
 3193 Department of Juvenile Justice and its institutions and facilities for the purpose of  
 3194 personnel who are authorized to exercise the power of arrest and who are employed or  
 3195 appointed by such department or institutions, and the office or section in the  
 3196 Department of Juvenile Justice in which persons are assigned who have been  
 3197 designated by the commissioner to investigate and apprehend delinquent children and  
 3198 any child with a pending juvenile court case alleging the child to be a child in need of  
 3199 services; and

3200 (C) The Department of Corrections, the Department of Community Supervision, the  
 3201 State Board of Pardons and Paroles, municipal correctional institutions employing 300

3202 or more correctional officers, and county correctional institutions for the purpose of  
 3203 personnel who are authorized to exercise the power of arrest and who are employed or  
 3204 appointed by ~~said~~ such department, board, or institutions.

3205 (8) 'Peace officer' means, for purposes of this chapter only:

3206 (A) An agent, operative, or officer of this state, a subdivision or municipality thereof,  
 3207 or a railroad who, as an employee for hire or as a volunteer, is vested either expressly  
 3208 by law or by virtue of public employment or service with authority to enforce the  
 3209 criminal or traffic laws through the power of arrest and whose duties include the  
 3210 preservation of public order, the protection of life and property, and the prevention,  
 3211 detection, or investigation of crime;

3212 (B) An enforcement officer who is employed by the Department of Transportation in  
 3213 its Office of Permits and Enforcement and any person employed by the Department of  
 3214 Juvenile Justice who is designated by the commissioner to investigate and apprehend  
 3215 delinquent children and any child with a pending juvenile court case alleging the child  
 3216 to be a child in need of services;

3217 (B.1) Personnel who are authorized to exercise the power of arrest, who are employed  
 3218 or appointed by the Department of Juvenile Justice, and whose full-time duties include  
 3219 the preservation of public order, the protection of life and property, the detection of  
 3220 crime, the supervision of delinquent children in the department's institutions, facilities,  
 3221 or programs, or the supervision of delinquent children under intensive supervision in  
 3222 the community;

3223 (C) Personnel who are authorized to exercise the power of arrest and who are  
 3224 employed or appointed by the Department of Corrections, the Department of  
 3225 Community Supervision, the State Board of Pardons and Paroles, municipal  
 3226 correctional institutions employing 300 or more correctional officers, county probation  
 3227 systems, and county correctional institutions; and

3228 (D) An administrative investigator who is an agent, operative, investigator, or officer  
 3229 of this state whose duties include the prevention, detection, and investigation of  
 3230 violations of law and the enforcement of administrative, regulatory, licensing, or  
 3231 certification requirements of his or her respective employing agency.

3232 Law enforcement support personnel are not peace officers within the meaning of this  
 3233 chapter, but they may be certified upon voluntarily complying with the certification  
 3234 provisions of this chapter."

3235 **SECTION 5-57.**

3236 Said title is further amended by revising subsections (a) and (b) of Code Section 35-8-3,  
 3237 relating to establishment of the Georgia Peace Officer Standards and Training Council,

3238 membership, organization, and administrative assignment to the Department of Public  
3239 Safety, as follows:

3240 "(a) The Georgia Peace Officer Standards and Training Council is established. The  
3241 council shall consist of ~~19~~ 20 voting members and five advisory members.

3242 (b) The voting members shall consist of:

3243 (1) An appointee of the Governor who is not the Attorney General, the commissioner of  
3244 public safety or his or her designee, the director of investigation of the Georgia Bureau  
3245 of Investigation or his or her designee, the president of the Georgia Association of Chiefs  
3246 of Police or his or her designee, the president of the Georgia Sheriffs Association or his  
3247 or her designee, the president of the Georgia Municipal Association or his or her  
3248 designee, the president of the Association County Commissioners of Georgia or his or her  
3249 designee, the president of the Peace Officers' Association of Georgia or his or her  
3250 designee, the commissioner of corrections or his or her designee, the commissioner of  
3251 community supervision or his or her designee, the chairperson of the State Board of  
3252 Pardons and Paroles or his or her designee, and the president of the Georgia Prison  
3253 Wardens Association or his or her designee, who shall be ex officio members of the  
3254 council;

3255 (2) Six members who shall be appointed by the Governor for terms of four years, their  
3256 initial appointments, however, being two for four-year terms, two for three-year terms,  
3257 and two for two-year terms. Appointments shall be made so that there are always on the  
3258 council the following persons who are appointed by the Governor: one chief of police;  
3259 two municipal police officers other than a chief of police; one county sheriff; one city  
3260 manager or mayor; and one county commissioner. No person shall serve beyond the time  
3261 he or she holds the office or employment by reason of which he or she was initially  
3262 eligible for appointment. Vacancies shall be filled in the same manner as the original  
3263 appointment and successors shall serve for the unexpired term. Any member may be  
3264 appointed for additional terms; and

3265 (3) Two members who are peace officers and who shall be appointed by the Governor  
3266 for terms of four years. Neither person shall serve beyond the time he or she is actively  
3267 employed or serves as a peace officer. Vacancies shall be filled in the same manner as  
3268 the original appointment and successors shall serve for the unexpired term."

3269 **SECTION 5-58.**

3270 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by  
3271 revising subsection (a) of Code Section 37-2-4, relating to the Behavioral Health  
3272 Coordinating Council, membership, meetings, and obligations, as follows:

3273 "(a) There is created the Behavioral Health Coordinating Council. The council shall  
 3274 consist of the commissioner of behavioral health and developmental disabilities; the  
 3275 commissioner of community health; the commissioner of public health; the commissioner  
 3276 of human services; the commissioner of juvenile justice; the commissioner of corrections;  
 3277 the commissioner of community supervision; the commissioner of community affairs; the  
 3278 Commissioner of Labor; the State School Superintendent; the chairperson of the State  
 3279 Board of Pardons and Paroles; the ombudsman appointed pursuant to Code Section  
 3280 37-2-32; an adult consumer of public behavioral health services, appointed by the  
 3281 Governor; a family member of a consumer of public behavioral health services, appointed  
 3282 by the Governor; a parent of a child receiving public behavioral health services, appointed  
 3283 by the Governor; a member of the House of Representatives, appointed by the Speaker of  
 3284 the House of Representatives; and a member of the Senate, appointed by the Lieutenant  
 3285 Governor."

#### 3286 SECTION 5-59.

3287 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
 3288 amended by revising subsection (c) of Code Section 40-5-64, relating to limited driving  
 3289 permits for certain offenders, as follows:

3290 "(c) **Standards for approval.** The department shall issue a limited driving permit if the  
 3291 application indicates that refusal to issue such permit would cause extreme hardship to the  
 3292 applicant. Except as otherwise provided by subsection (c.1) of this Code section, for the  
 3293 purposes of this Code section, 'extreme hardship' means that the applicant cannot  
 3294 reasonably obtain other transportation, and therefore the applicant would be prohibited  
 3295 from:

- 3296 (1) Going to his or her place of employment;
- 3297 (2) Receiving scheduled medical care or obtaining prescription drugs;
- 3298 (3) Attending a college or school at which he or she is regularly enrolled as a student;
- 3299 (4) Attending regularly scheduled sessions or meetings of support organizations for  
 3300 persons who have addiction or abuse problems related to alcohol or other drugs, which  
 3301 organizations are recognized by the commissioner;
- 3302 (5) Attending under court order any driver education or improvement school or alcohol  
 3303 or drug program or course approved by the court which entered the judgment of  
 3304 conviction resulting in suspension of his or her driver's license or by the commissioner;
- 3305 (6) Attending court, reporting to a ~~probation office or officer~~, community supervision,  
 3306 juvenile probation, or Article 6 of Chapter 8 of Title 42 ~~probation office or reporting to~~  
 3307 a community supervision officer, county or Department of Juvenile Justice juvenile

3308 probation officer, or probation officer serving pursuant to Article 6 of Chapter 8 of Title  
 3309 42 or performing community service; or  
 3310 (7) Transporting an immediate family member who does not hold a valid driver's license  
 3311 for work, medical care, or prescriptions or to school."

3312 **SECTION 5-60.**

3313 Said title is further amended by revising subsection (b) of Code Section 40-5-81, relating to  
 3314 program optional and certification and approval of courses relative to defensive driving  
 3315 courses or alcohol or drug programs, as follows:

3316 "(b) Whenever any person is authorized or required to attend a driver improvement clinic  
 3317 or DUI Alcohol or Drug Use Risk Reduction Program as a condition of any sentence  
 3318 imposed under this title or any ordinance enacted pursuant to this title or as a condition of  
 3319 the retention or restoration of the person's driving privilege, such person, in complying with  
 3320 such condition, shall be authorized to attend any driver improvement clinic approved under  
 3321 this article or DUI Alcohol or Drug Use Risk Reduction Program certified under this  
 3322 article; and no judicial officer, ~~probation~~ community supervision officer, law enforcement  
 3323 officer, or other officer or employee of a court or person who owns, operates, or is  
 3324 employed by a private company which has contracted to provide private probation services  
 3325 for misdemeanor cases shall specify, directly or indirectly, a particular driver improvement  
 3326 clinic or DUI Alcohol or Drug Use Risk Reduction Program which the person may or shall  
 3327 attend. This Code section shall not prohibit any judicial officer, ~~probation~~ community  
 3328 supervision officer, law enforcement officer, or other officer or employee of a court or  
 3329 owner, operator, or employee of a private company which has contracted to provide  
 3330 probation services for misdemeanor offenders from furnishing any person, upon request,  
 3331 the names of approved driver improvement clinics or certified DUI Alcohol or Drug Use  
 3332 Risk Reduction Programs."

3333 **SECTION 5-61.**

3334 Said title is further amended by revising subsection (d) of Code Section 40-5-83, relating to  
 3335 establishment and approval of driver improvement clinics and programs, out-of-state  
 3336 certificates of completion, instructor licenses, fees, operation of clinics by employees of  
 3337 probation division, and submission of fingerprints by applicants, as follows:

3338 "(d) Notwithstanding the provisions of any law or rule or regulation which prohibits any  
 3339 individual who ~~is a~~ was a probation officer or other official or employee of the probation  
 3340 division of the Department of Corrections on or before June, 30, 2015, or a spouse of such  
 3341 individual from owning, operating, instructing at, or being employed by a driver  
 3342 improvement clinic, any individual who ~~is~~ was a probation officer or other official or

3343 employee of the probation division of the Department of Corrections on or before June 30,  
 3344 2015, or a spouse of such individual who owns, operates, instructs at, or is employed by  
 3345 a driver improvement clinic ~~on June 1, 1985, and who in all respects is and remains~~ shall  
 3346 remain qualified to own, operate, instruct at, or be employed by a driver improvement  
 3347 clinic ~~is expressly authorized to continue on and after June 1, 1985, and~~ to engage in such  
 3348 activities. Any individual who is an employee of the Department of Community  
 3349 Supervision or a spouse of such individual who owns, operates, instructs at, or is employed  
 3350 by a driver improvement clinic on July 1, 2015, and who in all respects is and remains  
 3351 qualified to own, operate, instruct at, or be employed by a driver improvement clinic shall  
 3352 be expressly authorized to continue on and after June 1, 2015, to engage in such activities.  
 3353 No person who owns, operates, or is employed by a private company which has contracted  
 3354 to provide probation services for misdemeanor cases shall be authorized to own, operate,  
 3355 be an instructor at, or be employed by a driver improvement clinic or a DUI Alcohol or  
 3356 Drug Use Risk Reduction Program."

#### 3357 **SECTION 5-62.**

3358 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
 3359 by revising subparagraph (F) of paragraph (6) of Code Section 42-1-1, relating to definitions,  
 3360 as follows:

3361 "(F) Electronic monitoring, as such term is defined in Code Section ~~42-8-151~~ 42-3-111;  
 3362 and"

#### 3363 **SECTION 5-63.**

3364 Said title is further amended by revising Code Section 42-1-10, relating to preliminary urine  
 3365 screen drug tests, as follows:

3366 "42-1-10.

3367 (a) Any ~~probation officer, parole officer, or other~~ community supervision officer of the  
 3368 Department of Community Supervision or official or employee of the Department of  
 3369 Corrections who supervises any person covered under the provisions of paragraphs (1)  
 3370 through (7) of this subsection shall be exempt from the provisions of Chapter 22 of Title  
 3371 31 for the limited purposes of administering a preliminary urine screen drug test to any  
 3372 person who is:

- 3373 (1) Incarcerated;
- 3374 (2) Released as a condition of probation for a felony or misdemeanor;
- 3375 (3) Released as a condition of conditional release;
- 3376 (4) Released as a condition of parole;
- 3377 (5) Released as a condition of provisional release;

3378 (6) Released as a condition of pretrial release; or

3379 (7) Released as a condition of control release.

3380 (b) The Department of Corrections, Department of Community Supervision, and the State

3381 Board of Pardons and Paroles shall develop a procedure for the performance of preliminary

3382 urine screen drug tests in accordance with the manufacturer's standards for certification.

3383 Community supervision officers of the Department of Community Supervision or

3384 ~~Probation officers, parole officers, or other~~ officials or employees of the Department of

3385 Corrections who are supervisors of any person covered under paragraphs (1) through (7)

3386 of subsection (a) of this Code section shall be authorized to perform preliminary urine

3387 screen drug tests in accordance with such procedure. Such procedure shall include

3388 instructions as to a confirmatory test by a licensed clinical laboratory where necessary."

3389 **SECTION 5-64.**

3390 Said title is further amended by revising subsection (c) of Code Section 42-1-11, relating to

3391 notification of crime victim of impending release of offender from imprisonment, as follows:

3392 "(c) The notice given to a victim of a crime against a person or sexual offense ~~must~~ shall

3393 include the conditions governing the offender's release or transfer and either the identity

3394 of the corrections agent or the ~~county~~ community supervision officer who will be

3395 supervising the offender's release or a means to identify the agency that will be supervising

3396 the offender's release. The custodial authority complies with this Code section upon

3397 mailing the notice of impending release to the victim at the address which the victim has

3398 most recently provided to the custodial authority in writing."

3399 **SECTION 5-65.**

3400 Said title is further amended by revising paragraph (2) of subsection (a) and adding a new

3401 subsection to Code Section 42-1-12, relating to the State Sexual Offender Registry, to read

3402 as follows:

3403 "(2) 'Appropriate official' means:

3404 (A) With respect to a sexual offender who is sentenced to probation without any

3405 sentence of incarceration in the state prison system or who is sentenced pursuant to

3406 Article 3 of Chapter 8 of this title, relating to first offenders, the ~~Division of Probation~~

3407 ~~of the Department of Corrections~~ Department of Community Supervision;

3408 (B) With respect to a sexual offender who is sentenced to a period of incarceration in

3409 a prison under the jurisdiction of the Department of Corrections and who is

3410 subsequently released from prison or placed on probation, the commissioner of

3411 corrections or his or her designee;

3412 (C) With respect to a sexual offender who is placed on parole, the chairperson of the  
 3413 State Board of Pardons and Paroles or his or her designee; and  
 3414 (D) With respect to a sexual offender who is placed on probation through a private  
 3415 probation agency, the director of the private probation agency or his or her designee."  
 3416 "(c.1) The Department of Community Supervision shall keep all records of sexual  
 3417 offenders in a secure facility in accordance with Code Sections 15-1-10, 15-6-62, and  
 3418 15-6-62.1 until official proof of death of a registered sexual offender; thereafter, the records  
 3419 shall be destroyed."

### 3420 SECTION 5-66.

3421 Said title is further amended by revising Code Section 42-1-14, relating to risk assessment  
 3422 classification, classification as "sexually dangerous predator," and electronic monitoring, as  
 3423 follows:

3424 "42-1-14.

3425 (a)(1) The board shall determine the likelihood that a sexual offender will engage in  
 3426 another crime against a victim who is a minor or a dangerous sexual offense. The board  
 3427 shall make such determination for any sexual offender convicted on or after July 1, 2006,  
 3428 of a criminal offense against a victim who is a minor or a dangerous sexual offense and  
 3429 for any sexual offender incarcerated on July 1, 2006, but convicted prior to July 1, 2006,  
 3430 of a criminal offense against a victim who is a minor. Any sexual offender who changes  
 3431 residence from another state or territory of the United States or any other place to this  
 3432 state and who is not already designated under Georgia law as a sexually dangerous  
 3433 predator, sexual predator, or a sexually violent predator shall have his or her required  
 3434 registration information forwarded by the sheriff of his or her county of registration to the  
 3435 board for the purpose of risk assessment classification. The board shall also make such  
 3436 determination upon the request of a superior court judge for purposes of considering a  
 3437 petition to be released from registration restrictions or residency or employment  
 3438 restrictions as provided for in Code Section 42-1-19.

3439 (2) A sexual offender shall be placed into Level I risk assessment classification, Level  
 3440 II risk assessment classification, or sexually dangerous predator classification based upon  
 3441 the board's assessment criteria and information obtained and reviewed by the board. The  
 3442 sexual offender may provide the board with information, including, but not limited to,  
 3443 psychological evaluations, sexual history polygraph information, treatment history, and  
 3444 personal, social, educational, and work history, and may agree to submit to a  
 3445 psychosexual evaluation or sexual history polygraph conducted by the board. If the  
 3446 sexual offender has undergone treatment or supervision through the Department of  
 3447 Corrections or the Department of Community Supervision, such treatment records shall

3448 also be submitted to the board for evaluation. The prosecuting attorney shall provide the  
 3449 board with any information available to assist the board in rendering an opinion,  
 3450 including, but not limited to, criminal history and records related to previous criminal  
 3451 history. The board shall utilize the Georgia Bureau of Investigation to assist it in  
 3452 obtaining information relative to its evaluation of sexual offenders and the Georgia  
 3453 Bureau of Investigation shall provide the board with information as requested by the  
 3454 board. The board shall be authorized to obtain information from supervision records of  
 3455 the State Board of Pardons and Paroles regarding such sexual offender, but such records  
 3456 shall remain confidential state secrets in accordance with Code Section 42-9-53 and shall  
 3457 not be made available to any other person or entity or be subject to subpoena unless  
 3458 declassified by the State Board of Pardons and Paroles. The clerk of court shall send a  
 3459 copy of the sexual offender's conviction to the board and notify the board that a sexual  
 3460 offender's evaluation will need to be performed. The board shall render its  
 3461 recommendation for risk assessment classification within:

3462 (A) Sixty days of receipt of a request for an evaluation if the sexual offender is being  
 3463 sentenced pursuant to subsection (c) of Code Section 17-10-6.2;

3464 (B) Six months prior to the sexual offender's proposed release from confinement if the  
 3465 offender is incarcerated;

3466 (C) Sixty days of receipt of the required registration information from the sheriff when  
 3467 the sexual offender changes residence from another state or territory of the United  
 3468 States or any other place to this state and is not already classified;

3469 (D) Sixty days if the sexual offender is sentenced to a probated or suspended sentence;  
 3470 and

3471 (E) Ninety days if such classification is requested by the court pursuant to a petition  
 3472 filed under Code Section 42-1-19.

3473 (3) The board shall notify the ~~sex~~ sexual offender by first-class mail of its determination  
 3474 of risk assessment classification and shall send a copy of such classification to the  
 3475 Georgia Bureau of Investigation, the Department of Corrections, the Department of  
 3476 Community Supervision, the sheriff of the county where the sexual offender is registered,  
 3477 and the sentencing court, if applicable.

3478 (b) If the board determines that a sexual offender should be classified as a Level II risk  
 3479 assessment classification or as a sexually dangerous predator, the sexual offender may  
 3480 petition the board to reevaluate his or her classification. To file a petition for reevaluation,  
 3481 the sexual offender shall be required to submit his or her written petition for reevaluation  
 3482 to the board within 30 days from the date of the letter notifying the sexual offender of his  
 3483 or her classification. The sexual offender shall have 60 days from the date of the  
 3484 notification letter to submit information as provided in subsection (a) of this Code section

3485 in support of the sexual offender's petition for reevaluation. If the sexual offender fails to  
3486 submit the petition or supporting documents within the time limits provided, the  
3487 classification shall be final. The board shall notify the sexual offender by first-class mail  
3488 of its decision on the petition for reevaluation of risk assessment classification and shall  
3489 send a copy of such notification to the Georgia Bureau of Investigation, the Department of  
3490 Corrections, the Department of Community Supervision, the sheriff of the county where  
3491 the sexual offender is registered, and the sentencing court, if applicable.

3492 (c) A sexual offender who is classified by the board as a Level II risk assessment  
3493 classification or as a sexually dangerous predator may file a petition for judicial review of  
3494 his or her classification within 30 days of the date of the notification letter or, if the sexual  
3495 offender has requested reevaluation pursuant to subsection (b) of this Code section, within  
3496 30 days of the date of the letter denying the petition for reevaluation. The petition for  
3497 judicial review shall name the board as defendant, and the petition shall be filed in the  
3498 superior court of the county where the offices of the board are located. Within 30 days  
3499 after service of the appeal on the board, the board shall submit a summary of its findings  
3500 to the court and mail a copy, by first-class mail, to the sexual offender. The findings of the  
3501 board shall be considered prima-facie evidence of the classification. The court shall also  
3502 consider any relevant evidence submitted, and such evidence and documentation shall be  
3503 mailed to the parties as well as submitted to the court. The court may hold a hearing to  
3504 determine the issue of classification. The court may uphold the classification of the board,  
3505 or, if the court finds by a preponderance of the evidence that the sexual offender is not  
3506 placed in the appropriate classification level, the court shall place the sexual offender in the  
3507 appropriate risk assessment classification. The court's determination shall be forwarded  
3508 by the clerk of the court to the board, the sexual offender, the Georgia Bureau of  
3509 Investigation, and the sheriff of the county where the sexual offender is registered.

3510 (d) Any individual who was classified as a sexually violent predator prior to July 1, 2006,  
3511 shall be classified as a sexually dangerous predator on and after July 1, 2006.

3512 (e) Any sexually dangerous predator shall be required to wear an electronic monitoring  
3513 system that shall have, at a minimum:

3514 (1) The capacity to locate and record the location of a sexually dangerous predator by a  
3515 link to a global positioning satellite system;

3516 (2) The capacity to timely report or record a sexually dangerous predator's presence near  
3517 or within a crime scene or in a prohibited area or the sexually dangerous predator's  
3518 departure from specific geographic locations; and

3519 (3) An alarm that is automatically activated and broadcasts the sexually dangerous  
3520 predator's location if the global positioning satellite monitor is removed or tampered with

3521 by anyone other than a law enforcement official designated to maintain and remove or  
3522 replace the equipment.

3523 Such electronic monitoring system shall be worn by a sexually dangerous predator for the  
3524 remainder of his or her natural life. The sexually dangerous predator shall pay the cost of  
3525 such system to the Department of ~~Corrections~~ Community Service if the sexually  
3526 dangerous predator is ~~on probation; to the State Board of Pardons and Paroles if the~~  
3527 ~~sexually dangerous predator is on parole;~~ under probation or parole supervision and to the  
3528 sheriff after the sexually dangerous predator completes his or her term of probation and  
3529 parole or if the sexually dangerous predator has moved to this state from another state,  
3530 territory, or country. The electronic monitoring system shall be placed upon the sexually  
3531 dangerous predator prior to his or her release from confinement. If the sexual offender is  
3532 not in custody, within 72 hours of the decision classifying the sexual offender as a sexually  
3533 dangerous predator in accordance with subsection (b) of this Code section, the sexually  
3534 dangerous predator shall report to the sheriff of the county of his or her residence for  
3535 purposes of having the electronic monitoring system placed on the sexually dangerous  
3536 predator.

3537 (f) In addition to the requirements of registration for all sexual offenders, a sexually  
3538 dangerous predator shall report to the sheriff of the county where such predator resides six  
3539 months following his or her birth month and update or verify his or her required  
3540 registration information."

3541 **SECTION 5-67.**

3542 Said title is further amended by revising subsection (f) of Code Section 42-1-19, relating to  
3543 petition for release from registration requirements, as follows:

3544 "(f) The court may issue an order releasing the individual from registration requirements  
3545 or residency or employment restrictions, in whole or part, if the court finds by a  
3546 preponderance of the evidence that the individual does not pose a substantial risk of  
3547 perpetrating any future dangerous sexual offense. The court may release an individual  
3548 from such requirements or restrictions for a specific period of time. The court shall send  
3549 a copy of any order releasing an individual from any requirements or restrictions to the  
3550 sheriff and the district attorney of the jurisdiction where the petition is filed, to the sheriff  
3551 of the county where the individual resides, to the Department of Corrections, to the  
3552 Department of Community Supervision, and to the Georgia Bureau of Investigation."

**SECTION 5-68.**

3553

3554 Said title is further amended by revising subsection (c) of Code Section 42-2-11, relating to  
 3555 powers and duties of the Board of Corrections and adoption of rules and regulations, as  
 3556 follows:

3557 "(c)(1) The board shall adopt rules governing the assignment, housing, working, feeding,  
 3558 clothing, treatment, discipline, rehabilitation, training, and hospitalization of all inmates  
 3559 coming under its custody.

3560 (2)(A) As used in this paragraph, the term:

3561 (i) 'Evidence based practices' means supervision policies, procedures, programs, and  
 3562 practices that scientific research demonstrates reduce recidivism among individuals  
 3563 who are under some form of correctional supervision.

3564 (ii) 'Recidivism' means returning to prison or jail within three years of being placed  
 3565 on probation or being discharged or released from a department or jail facility.

3566 (B) The board shall adopt rules and regulations governing the management and  
 3567 treatment of inmates ~~and probationers coming under its custody~~ to ensure that evidence  
 3568 based practices, including the use of a risk and needs assessment and any other method  
 3569 the board deems appropriate, guide decisions related to preparing inmates for release  
 3570 into the community ~~and managing probationers in the community~~. The board shall  
 3571 require the department to collect and analyze data and performance outcomes relevant  
 3572 to the level and type of treatment given to an inmate ~~or probationer~~ and the outcome of  
 3573 the treatment on his or her recidivism and prepare an annual report regarding such  
 3574 information which shall be submitted to the Governor, the Lieutenant Governor, the  
 3575 Speaker of the House of Representatives, and the chairpersons of the House Committee  
 3576 on State Properties and the Senate State Institutions and Property Committee."

**SECTION 5-69.**

3577

3578 Said title is further amended by revising paragraphs (3) and (4) of subsection (a) of Code  
 3579 Section 42-2-15, relating to the employee benefit fund of the Department of Corrections, as  
 3580 follows:

3581 "(3) 'Executive director of the facility' means the warden, superintendent, ~~chief probation~~  
 3582 ~~official~~, or such other head of a facility.

3583 (4) 'Facility' means a prison, institution, detention center, diversion center, ~~probation~~  
 3584 ~~office~~, or such other similar property under the jurisdiction or operation of the  
 3585 department."

3586 **SECTION 5-70.**

3587 Said title is further amended by revising paragraph (3) of Code Section 42-4-50, relating to  
3588 definitions relative to medical services for inmates, as follows:

3589 "(3) 'Inmate' means a person who is detained in a detention facility by reason of being  
3590 charged with or convicted of a felony, a misdemeanor, or a municipal offense. Such term  
3591 does not include any sentenced inmate who is the responsibility of the ~~State~~ Department  
3592 of Corrections."

3593 **SECTION 5-71.**

3594 Said title is further amended by revising paragraph (5) of subsection (a) of Code Section  
3595 42-5-50, relating to transmittal of information on convicted persons, as follows:

3596 "(5) A copy of the sentencing information report is required in all jurisdictions with an  
3597 options system day reporting center certified by the ~~department~~ Department of  
3598 Community Supervision. The failure to provide the sentencing information report shall  
3599 not cause an increase in the 15 day time period for the department to assign the inmate  
3600 to a correctional institution as set forth in subsection (b) of this Code section."

3601 **SECTION 5-72.**

3602 Said title is further amended by repealing in its entirety Article 4 of Chapter 8, relating to  
3603 participation of probationers in community service programs, and designating said article as  
3604 reserved.

3605 **SECTION 5-73.**

3606 Said title is further amended by revising subsections (c) and (d) of Code Section 42-8-112,  
3607 relating to timing for issuance of ignition interlock device limited driving permit,  
3608 documentation required, and reporting requirement, as follows:

3609 "(c) Each resident of this state who is required to have an ignition interlock device installed  
3610 pursuant to this article shall report to the provider center every 30 days for the purpose of  
3611 monitoring the operation of each required ignition interlock device. If at any time it is  
3612 determined that a person has tampered with the device, the Department of Driver Services  
3613 shall be given written notice within five days by the ~~probation~~ community supervision  
3614 officer, the court ordering the use of such device, or the interlock provider. If an ignition  
3615 interlock device is found to be malfunctioning, it shall be replaced or repaired, as ordered  
3616 by the court or the Department of Driver Services, at the expense of the provider.

3617 (d)(1) If a person required to report to an ignition interlock provider as required by  
3618 subsection (c) of this Code section fails to report to the provider as required or receives  
3619 an unsatisfactory report from the provider at any time during the one-year period, the

3620 Department of Driver Services shall revoke such person's ignition interlock device  
3621 limited driving permit immediately upon notification from the provider of the failure to  
3622 report or failure to receive a satisfactory report. Except as provided in paragraph (2) of  
3623 this subsection, within 30 days after such revocation, the person may make a written  
3624 request for a hearing and remit to the ~~department~~ Department of Driver Services a  
3625 payment of \$250.00 for the cost of the hearing. Within 30 days after receiving a written  
3626 request for a hearing and a payment of \$250.00, the Department of Driver Services shall  
3627 hold a hearing as provided in Chapter 13 of Title 50, the 'Georgia Administrative  
3628 Procedure Act.' The hearing shall be recorded.

3629 (2) Any person whose ignition interlock device limited driving permit was revoked on  
3630 or before July 1, 2004, for failure to report or failure to receive a satisfactory report may  
3631 make a written request for a hearing and remit to the ~~department~~ Department of Driver  
3632 Services a payment of \$250.00 for the cost of the hearing. Within 30 days after receiving  
3633 a written request for a hearing and a payment of \$250.00, the Department of Driver  
3634 Services shall hold a hearing as provided in Chapter 13 of Title 50, the 'Georgia  
3635 Administrative Procedure Act.' The hearing shall be recorded.

3636 (3) If the hearing officer determines that the person failed to report to the ignition  
3637 interlock provider for any of the reasons specified in this paragraph, the Department of  
3638 Driver Services shall issue a new ignition interlock device limited driving permit that  
3639 shall be valid for a period of one year to such person. Such reasons shall be for  
3640 providential cause and shall include, but not be limited to, the following:

- 3641 (A) Medical necessity, as evidenced by a written statement from a medical doctor;  
3642 (B) The person was incarcerated;  
3643 (C) The person was required to be on the job at his or her place of employment, with  
3644 proof that the person would be terminated if he or she was not at work; or  
3645 (D) The vehicle with the installed interlock device was rendered inoperable by reason  
3646 of collision, fire, or a major mechanical failure.

3647 (4) If the hearing officer determines that the person failed to report to the ignition  
3648 interlock provider for any reason other than those specified in paragraph (3) of this  
3649 subsection, or if the person received an unsatisfactory report from the provider, after the  
3650 expiration of 120 days the person may apply to the ~~department~~ Department of Driver  
3651 Services and the ~~department~~ Department of Driver Services shall issue a new ignition  
3652 interlock device limited driving permit to such person.

3653 (5) This subsection shall not apply to any person convicted of violating Code Section  
3654 42-8-118."

3655 **SECTION 5-74.**

3656 Said title is further amended by revising Code Section 42-8-61, relating to the defendant  
3657 being informed of the terms of the article at the time a sentence is imposed, as follows:

3658 "42-8-61.

3659 When a defendant is represented by an attorney, his or her attorney shall be responsible for  
3660 informing the defendant as to his or her eligibility for sentencing as a first offender. When  
3661 a defendant is pro se, the court shall inquire as to the defendant's interest in entering a plea  
3662 pursuant to the terms of this article. If the defendant expresses a desire to be sentenced as  
3663 a first offender, the court shall ask the prosecuting attorney or probation official if the  
3664 defendant is eligible for sentencing as a first offender. When imposing a sentence, the  
3665 court shall ensure that, if a defendant is sentenced as a first offender, he or she is made  
3666 aware of the consequences of entering a first offender plea pursuant to the terms of this  
3667 article. ~~The defendant shall be informed of the terms of this article at the time of~~  
3668 imposition of sentence."

3669 **SECTION 5-75.**

3670 Said title is further amended by revising Code Section 42-8-66, relating to applicability, as  
3671 follows:

3672 "42-8-66.

3673 ~~The provisions of this article shall not apply to any person who is convicted of a serious~~  
3674 ~~violent felony as defined in subsection (a) of Code Section 17-10-6.1.~~

3675 (a) An individual who qualified for sentencing pursuant to this article but who was not  
3676 informed of his or her eligibility for first offender treatment may, with the consent of the  
3677 prosecuting attorney, petition the superior court in the county in which he or she was  
3678 convicted for discharge and exoneration pursuant to this article.

3679 (b) The court shall hold a hearing on the petition if requested by the petitioner or  
3680 prosecuting attorney or desired by the court.

3681 (c) In considering a petition pursuant to this Code section, the court may consider any:

3682 (1) Evidence introduced by the petitioner;

3683 (2) Evidence introduced by the prosecuting attorney; and

3684 (3) Other relevant evidence.

3685 (d) The court may issue an order retroactively granting first offender treatment and  
3686 discharge the defendant pursuant to this article if the court finds by a preponderance of the  
3687 evidence that the defendant was eligible for sentencing under the terms of this article at the  
3688 time he or she was originally sentenced and the ends of justice and the welfare of society  
3689 are served by granting such petition.

3690 (e) The court shall send a copy of any order issued pursuant to this Code section to the  
 3691 petitioner, the prosecuting attorney, and the Georgia Bureau of Investigation. The Georgia  
 3692 Bureau of Investigation shall modify its records accordingly.

3693 (f) This Code section shall not apply to a sentence that may be modified pursuant to  
 3694 subsection (f) of Code Section 17-10-1."

3695 **SECTION 5-76.**

3696 Said title is further amended by revising subsection (a) of Code Section 42-8-114, relating  
 3697 to specifying provider for ignition interlock device, as follows:

3698 "(a) No judicial officer, ~~probation~~ community supervision officer, law enforcement officer,  
 3699 or other officer or employee of a court; person who owns, operates, or is employed by a  
 3700 private company which has contracted to provide private probation services for  
 3701 misdemeanor cases; or professional bondsman or agent or employee thereof shall specify,  
 3702 directly or indirectly, a particular provider center which the person may or shall utilize  
 3703 when use of an ignition interlock device is required. This subsection shall not prohibit any  
 3704 judicial officer, ~~probation~~ community supervision officer, law enforcement officer, or other  
 3705 officer or employee of a court; owner, operator, or employee of a private company which  
 3706 has contracted to provide probation services for misdemeanor cases; or professional  
 3707 bondsman or agent or employee thereof from furnishing any person, upon request, the  
 3708 names of certified provider centers."

3709 **SECTION 5-77.**

3710 Said title is further amended by revising Code Section 42-8-116, relating to warning labels  
 3711 on ignition interlock devices, as follows:

3712 "42-8-116.

3713 The providers certified by the Department of Driver Services shall design and adopt  
 3714 pursuant to regulations of ~~the~~ such department a warning label which shall be affixed to  
 3715 each ignition interlock device upon installation. The label shall contain a warning that any  
 3716 person tampering, circumventing, or otherwise misusing the device is guilty of a  
 3717 misdemeanor and may be subject to civil liability."

3718 **SECTION 5-78.**

3719 Said title is further amended by repealing in its entirety Article 5 of Chapter 8, relating to  
 3720 pretrial release and diversion programs, and designating said article as reserved.

3721 **SECTION 5-79.**

3722 Said title is further amended by repealing in its entirety Article 8 of Chapter 8, relating to  
3723 diversion center and program.

3724 **SECTION 5-80.**

3725 Said title is further amended by repealing in its entirety Article 9 of Chapter 8, relating to  
3726 probation management.

3727 **SECTION 5-81.**

3728 Said title is further amended by revising Code Section 42-9-3, relating to "board" defined,  
3729 as follows:

3730 "42-9-3.

3731 As used in this chapter, the term "board":

3732 (1) 'Board' means the State Board of Pardons and Paroles.

3733 (2) 'Community supervision officer' means a person who supervises probationers or  
3734 parolees for the department.

3735 (3) 'Department' means the Department of Community Supervision.

3736 (4) 'Split sentence' means any felony sentence that includes a term of imprisonment  
3737 followed by a term of probation."

3738 **SECTION 5-82.**

3739 Said title is further amended by revising Code Section 42-9-9, relating to the State Board of  
3740 Pardons and Paroles employees and retention of badges and weapons, as follows:

3741 "42-9-9.

3742 (a) The board may appoint such clerical, stenographic, supervisory, and expert assistants  
3743 and may establish such qualifications for its employees as it deems necessary. In its  
3744 discretion, the board may discharge such employees.

3745 ~~(b) A certified parole officer leaving the service of the board under honorable conditions~~  
3746 ~~who has accumulated 20 or more years of service with the board as a certified parole~~  
3747 ~~officer shall be entitled as part of such employee's compensation to retain his or her board~~  
3748 ~~issued badge. A certified parole officer employed with the board who is killed in the line~~  
3749 ~~of duty shall be entitled to have his or her board issued badge given to a surviving family~~  
3750 ~~member. Where a certified parole officer leaves the service of the board due to a disability~~  
3751 ~~that arose in the line of duty and such disability prevents the parole officer from further~~  
3752 ~~serving as a peace officer, then such disabled parole officer shall be entitled to retain his~~  
3753 ~~or her board issued badge regardless of the officer's number of years of service with the~~  
3754 ~~board.~~

3755 ~~(c) An employee leaving the service of the board under honorable conditions who has~~  
 3756 ~~accumulated 20 or more years of service with the board as a certified officer shall be~~  
 3757 ~~entitled as part of such employee's compensation to retain his or her board issued weapon.~~  
 3758 ~~(d) The board is authorized to promulgate rules and regulations for the implementation of~~  
 3759 ~~this Code section."~~

3760 **SECTION 5-83.**

3761 Said title is further amended by revising Code Section 42-9-20, relating to general duties of  
 3762 the State Board of Pardons and Paroles, as follows:

3763 "42-9-20.

3764 (a) In all cases in which the ~~chairman~~ chairperson of the board or any other member  
 3765 designated by the board has suspended the execution of a death sentence to enable the full  
 3766 board to consider and pass on same, it shall be mandatory that the board act within a period  
 3767 not exceeding 90 days from the date of the suspension order. In the cases which the board  
 3768 has power to consider, the board shall be charged with the duty of determining which  
 3769 inmates serving sentences imposed by a court of this state may be released on pardon or  
 3770 parole and fixing the time and conditions thereof. The board shall also be charged with the  
 3771 ~~duty of supervising all persons placed on parole,~~ of determining violations ~~thereof~~ of parole  
 3772 ~~and of taking action with reference thereto,~~ of and making such investigations as may be  
 3773 necessary, ~~and of aiding parolees or probationers in securing employment.~~ It shall be the  
 3774 duty of the board personally to study the cases of those inmates whom the board has power  
 3775 to consider so as to determine their ultimate fitness for such relief as the board has power  
 3776 to grant. The board by an affirmative vote of a majority of its members shall have the  
 3777 power to commute a sentence of death to one of life imprisonment.

3778 (b) The board shall provide The Council of Superior Court Clerks of Georgia the data set  
 3779 forth in Code Section 15-12-40.1, without charge and in the electronic format requested."

3780 **SECTION 5-84.**

3781 Said title is further amended by revising Code Section 42-9-21, relating to supervision of  
 3782 persons placed on parole or other conditional release, contracts for services and programs,  
 3783 and collection of sums for restitution, as follows:

3784 "42-9-21.

3785 (a) The ~~board~~ department shall have the function and responsibility of supervising all  
 3786 persons placed on parole or other conditional release by the board.

3787 (b) The ~~board is~~ department shall be authorized to maintain and operate or to enter into  
 3788 ~~memoranda~~ memorandums of agreement or other written documents evidencing contracts  
 3789 with other state agencies, persons, or any other entities for transitional or intermediate or

3790 other services or for programs deemed by the board to be necessary for parolees or others  
 3791 conditionally released from imprisonment by order of the board and to require as a  
 3792 condition of relief that the offender pay directly to the provider a reasonable fee for ~~said~~  
 3793 such services or programs.

3794 (c) In all cases where restitution is applicable, the ~~board~~ department shall collect during  
 3795 the parole period those sums determined to be owed to the victim."

3796 **SECTION 5-85.**

3797 Said title is further amended by revising subsection (b) of Code Section 42-9-41, relating to  
 3798 duty of board to obtain and place in records information respecting persons subject to relief  
 3799 or placed on probation, investigations, and rules, as follows:

3800 "(b) The board in its discretion may also obtain and place in its permanent records similar  
 3801 information on each person who may be placed on probation. The board shall immediately  
 3802 examine such records and any other records obtained and make such other investigation  
 3803 as it may deem necessary. It shall be the duty of the court and of all ~~probation~~ community  
 3804 supervision officers and other appropriate officers to furnish to the board, upon its request,  
 3805 such information as may be in their possession or under their control. The Department of  
 3806 Behavioral Health and Developmental Disabilities and all other state, county, and city  
 3807 agencies, all sheriffs and their deputies, and all peace officers shall cooperate with the  
 3808 board and shall aid and assist it in the performance of its duties. The board may make such  
 3809 rules as to the privacy or privilege of such information and as to its use by persons other  
 3810 than the board and its staff as may be deemed expedient in the performance of its duties."

3811 **SECTION 5-86.**

3812 Said title is further amended by revising subsection (d) of Code Section 42-9-42, relating to  
 3813 procedure for granting relief from sentence, conditions and prerequisites, and violation of  
 3814 parole, as follows:

3815 "(d)(1) Any person who is paroled shall be released on such terms and conditions as the  
 3816 board shall prescribe. The board shall diligently see that no peonage is allowed in the  
 3817 guise of parole relationship or supervision. The parolee shall remain in the legal custody  
 3818 of the board until the expiration of the maximum term specified in his or her sentence or  
 3819 until he or she is pardoned by the board.

3820 (2) The board may require the payment of a parole supervision fee of at least \$10.00 per  
 3821 month as a condition of parole or other conditional release. The monthly amount shall  
 3822 be set by rule of the board and shall be uniform state wide. The board may require or the  
 3823 parolee or person under conditional release may request that up to 24 months of the  
 3824 supervision fee be paid in advance of the time to be spent on parole or conditional

3825 release. In such cases, any advance payments are nonreimbursable in the event of parole  
 3826 or conditional release revocation or if parole or conditional release is otherwise  
 3827 terminated prior to the expiration of the sentence being served on parole or conditional  
 3828 release. Such fees shall be collected by the ~~board~~ department to be paid into the general  
 3829 fund of the state treasury."

### 3830 SECTION 5-87.

3831 Said title is further amended by revising Code Section 42-9-44, relating to specification of  
 3832 terms and conditions of parole; adoption of general and special rules, violation of parole, and  
 3833 certain parolees to obtain high school diploma or general educational development (GED)  
 3834 diploma, as follows:

3835 "42-9-44.

3836 (a) The board, upon placing a person on parole, shall specify in writing the terms and  
 3837 conditions thereof. A certified copy of the conditions shall be given to the parolee.  
 3838 Thereafter, a copy shall be sent to the clerk of the court in which the person was convicted.  
 3839 The board shall adopt general rules concerning the terms and conditions of parole and  
 3840 concerning what shall constitute a violation thereof and shall make special rules to govern  
 3841 particular cases. The rules, both general and special, may include, among other things, a  
 3842 requirement that the parolee shall not leave this state or any definite area in this state  
 3843 without the consent of the board; that the parolee shall contribute to the support of his or  
 3844 her dependents to the best of the parolee's ability; that the parolee shall make reparation or  
 3845 restitution for his or her crime; that the parolee shall abandon evil associates and ways; and  
 3846 that the parolee shall carry out the instructions of his or her ~~parole supervisor~~ community  
 3847 supervision officer, and, in general, so comport himself or herself as the parolee's  
 3848 ~~supervisor officer~~ shall determine. A violation of the terms of parole may render the  
 3849 parolee liable to arrest and a return to a penal institution to serve out the term for which the  
 3850 parolee was sentenced.

3851 (b) Each parolee who does not have a high school diploma or a general educational  
 3852 development ~~equivalency diploma~~ (GED) diploma shall be required as a condition of  
 3853 parole to obtain a high school diploma or general educational development ~~equivalency~~  
 3854 ~~diploma~~ (GED) diploma or to pursue a trade at a vocational or technical school. Any such  
 3855 parolee who demonstrates to the satisfaction of the board an existing ability or skill which  
 3856 does in fact actually furnish the parolee a reliable, regular, and sufficient income shall not  
 3857 be subject to this provision. Any parolee who is determined by the ~~Department of~~  
 3858 ~~Corrections~~ department or the board to be incapable of completing such requirements shall  
 3859 only be required to attempt to improve ~~their~~ his or her basic educational skills. Failure of  
 3860 any parolee subject to this requirement to attend the necessary schools or courses or to

3861 make reasonable progress toward fulfillment of such requirement shall be grounds for  
 3862 revocation of parole. The board shall establish regulations regarding reasonable progress  
 3863 as required by this subsection. This subsection shall apply to paroles granted on or after  
 3864 July 1, 1995."

3865 **SECTION 5-88.**

3866 Said title is further amended by revising subsections (c) and (d) of Code Section 42-9-48,  
 3867 relating to arrest of parolee or conditional release violator, as follows:

3868 "(c) All officers authorized to serve criminal process, all peace officers of this state, and  
 3869 all employees of the ~~board~~ department whom the ~~board~~ commissioner of community  
 3870 supervision specifically designates in writing shall be authorized to execute the warrant.

3871 (d) Any ~~parole supervisor~~ community supervision officer, when he or she has reasonable  
 3872 ground to believe that a parolee or conditional releasee has violated the terms or conditions  
 3873 of his or her parole or conditional release in a material respect, shall notify the board or  
 3874 some member thereof; and proceedings shall thereupon be had as provided in this Code  
 3875 section."

3876 **SECTION 5-89.**

3877 Said title is further amended by revising subsection (b) of Code Section 42-9-53, relating to  
 3878 preservation of documents, classification of information and documents, divulgence of  
 3879 confidential state secrets, and conduct of hearings, as follows:

3880 "(b)(1) All information, both oral and written, received by the members of the board in  
 3881 the performance of their duties under this chapter and all records, papers, and documents  
 3882 coming into their possession by reason of the performance of their duties under this  
 3883 chapter shall be classified as confidential state secrets until declassified by the board;  
 3884 provided, however, that the board shall be authorized to disclose to an alleged violator  
 3885 of parole or conditional release the evidence introduced against him or her at a final  
 3886 hearing on the matter of revocation of parole or conditional release; ~~provided, further,~~  
 3887 ~~that the board.~~

3888 (2) The department may make supervision records of the ~~board~~ department available to  
 3889 ~~probation~~ officials employed with the Department of Corrections and the Sexual Offender  
 3890 Registration Review Board, provided that the same shall remain confidential and not  
 3891 available to any other person or subject to subpoena unless declassified by the ~~board~~  
 3892 commissioner of community supervision."

**SECTION 5-90.**

3893  
 3894 Said title is further amended by revising Code Section 42-9-57, relating to effect of chapter  
 3895 on probation power of courts and cooperation by board with local agencies, as follows:

3896 "42-9-57.

3897 Nothing contained in this chapter shall be construed as repealing any power given to any  
 3898 court of this state to place offenders on probation or to ~~supervise the same nor any power~~  
 3899 ~~of any probation agency set up in any county of the state in conjunction with the courts~~  
 3900 provide for terms of offender supervision. The board shall be authorized to cooperate with  
 3901 ~~any such agencies~~ the department, except that it shall not assume or pay any financial  
 3902 obligations thereof. ~~The board shall also be authorized to cooperate with the courts for the~~  
 3903 ~~probation of offenders in those counties in which there is no existing probation agency,~~  
 3904 ~~when a court so requests."~~

**SECTION 5-91.**

3905  
 3906 Said title is further amended by revising subsection (b) of Code Section 42-9-90, relating to  
 3907 application fee required for transfer consideration, as follows:

3908 "(b) ~~The Department of Corrections~~ department and the State Board of Pardons and  
 3909 Paroles ~~are~~ shall be authorized to require any nonindigent adult offender to pay a \$25.00  
 3910 application fee when applying to transfer his or her supervision from Georgia to any other  
 3911 state or territory pursuant to the provisions of Articles 3 and 4 of this chapter."

**SECTION 5-92.**

3912  
 3913 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,  
 3914 is amended by revising subsection (c) of Code Section 43-12A-5, relating to provider not to  
 3915 operate under any name deceptively similar to another, franchising or licensing to another  
 3916 licensed provider, and restrictions on certain individuals having stake in provider center, as  
 3917 follows:

3918 "(c) A judicial officer, ~~probation~~ community supervision officer, law enforcement officer,  
 3919 or other officer or employee of a court or any person employed by a private company  
 3920 which has contracted to provide private probation services for misdemeanor cases, or any  
 3921 employee of the Department of Driver Services or the Department of Behavioral Health  
 3922 and Developmental Disabilities, and any immediate family member thereof shall be  
 3923 prohibited from owning, operating, being employed by, ~~or~~ acting as an agent or servant for,  
 3924 or having a financial interest in any provider center."

3925 **SECTION 5-93.**

3926 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
3927 is amended by revising subsection (e) of Code Section 45-7-9, relating to compensation for  
3928 line-of-duty injuries of full-time state employees and exceptions, as follows:

3929 "(e) Any employee of the Department of Corrections, employee of the Department of  
3930 Community Supervision, employee of the State Board of Pardons and Paroles, employee  
3931 of the Department of Natural Resources, employee of the Department of Revenue, or law  
3932 enforcement officer who qualifies for disability allowances pursuant to Code Section  
3933 47-2-221 shall not be entitled to any benefits provided in this Code section."

3934 **SECTION 5-94.**

3935 Said title is further amended by revising subsection (a) of Code Section 45-7-21, relating to  
3936 expense allowance and travel cost reimbursement for members of certain boards and  
3937 commissions, as follows:

3938 "(a) Each member of the boards and commissions enumerated in this Code section shall  
3939 receive the same expense allowance per day as that received by a member of the General  
3940 Assembly for each day such member of a board or commission is in attendance at a  
3941 meeting of such board or commission, plus reimbursement for actual transportation costs  
3942 while traveling by public carrier or the legal mileage rate for the use of a personal  
3943 automobile in connection with such attendance. The expense allowance and  
3944 reimbursement provided for in this Code section shall be paid in lieu of any per diem,  
3945 allowance, or other remuneration now received by any such member for such attendance.  
3946 The existing law relative to any limitation on the number of meeting days and remuneration  
3947 for service on committees or subcommittees of any such board or commission shall remain  
3948 in effect. The boards and commissions to which this Code section shall be applicable are  
3949 as follows:

- 3950 (1) State Board of Education;
- 3951 (2) Board of Regents of the University System of Georgia;
- 3952 (2.1) Board of Community Supervision;
- 3953 (3) Board of Corrections;
- 3954 (4) Board of Economic Development;
- 3955 (5) Board of Natural Resources;
- 3956 (6) State Transportation Board;
- 3957 (7) Dental Education Board;
- 3958 (8) Georgia Student Finance Commission;
- 3959 (9) Veterans Service Board;
- 3960 (10) Georgia Agricultural Exposition Authority;

- 3961 (11) Georgia Board for Physician Workforce;  
 3962 (12) Georgia Music Hall of Fame Authority;  
 3963 (13) Georgia Sports Hall of Fame Authority;  
 3964 (14) Georgia Rail Passenger Authority;  
 3965 (15) Georgia Tobacco Community Development Board;  
 3966 (16) State Board of the Technical College System of Georgia;  
 3967 (17) Civil War Commission; and  
 3968 (18) The delegation from the State of Georgia to the Southern Dairy Compact  
 3969 Commission."

3970 **SECTION 5-95.**

3971 Said title is further amended by revising paragraph (10) of Code Section 45-9-81, relating  
 3972 to definitions relative to the Georgia State Indemnification Fund, as follows:

3973 "(10) 'Prison guard' means any person employed by the state or any political subdivision  
 3974 thereof whose principal duties relate to the supervision and incarceration of persons  
 3975 accused or convicted of the violation of the criminal laws of this state or any political  
 3976 subdivision thereof. Such term shall also mean any ~~probation supervisor or parole~~  
 3977 community supervision officer who is required to be certified under Chapter 8 of Title 35,  
 3978 the 'Georgia Peace Officer Standards and Training Act,' and whose principal duties  
 3979 directly relate to the supervision of ~~adult~~ probationers or ~~adult~~ parolees. Such term also  
 3980 means any person employed by the state or any political subdivision thereof whose  
 3981 principal duties include the supervision of youth who are charged with or adjudicated for  
 3982 an act which if committed by adults would be considered a crime."

3983 **SECTION 5-96.**

3984 Said title is further amended by revising Code Section 45-9-83, relating to the creation of the  
 3985 Georgia State Indemnification Commission, composition, assignment to Department of  
 3986 Administrative Services for administrative purposes, and meetings, as follows:

3987 "45-9-83.

3988 There is created the Georgia State Indemnification Commission which shall be composed  
 3989 of the Governor, the executive director of the Peace Officer Standards and Training  
 3990 Council, the executive director of the Georgia Firefighter Standards and Training Council,  
 3991 the commissioner of public safety, the commissioner of transportation, the commissioner  
 3992 of corrections, the commissioner of community supervision, the commissioner of public  
 3993 health, one law enforcement officer who shall be a member of the Peace Officers'  
 3994 Association of Georgia appointed by the Governor from a list of five candidates provided  
 3995 by such organization, and one firefighter who shall be a member of the Georgia State

3996 Firemen's Association appointed by the Governor from a list of five candidates provided  
 3997 by such organization. The Governor shall be the chairperson of the commission, and the  
 3998 commission shall be assigned to the department for administrative purposes. The  
 3999 commission shall meet at least semiannually upon the call of the Governor."

4000 **SECTION 5-97.**

4001 Said title is further amended by revising paragraph (7) of Code Section 45-9-101, relating  
 4002 to definitions relative to the temporary disability compensation program, as follows:

4003 "(7) 'Law enforcement officer' means any agent or officer of this state, or a political  
 4004 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested  
 4005 either expressly by law or by virtue of public employment or service with authority to  
 4006 enforce the criminal or traffic laws and whose duties include the preservation of public  
 4007 order, the protection of life and property, or the prevention, detection, or investigation of  
 4008 crime. Such term also includes the employees designated by the commissioner of  
 4009 community supervision who have the duty to supervise youthful offenders for committing  
 4010 a Class A designated felony act or Class B designated felony act, as such terms are  
 4011 defined in Code Section 15-11-2, and the commissioner of juvenile justice pursuant to  
 4012 paragraph (2) of subsection (i) of Code Section 49-4A-8 who have the duty to investigate  
 4013 and apprehend delinquent children, or the supervision of delinquent children under  
 4014 intensive supervision in the community, and any child with a pending juvenile court case  
 4015 alleging the child to be a child in need of services who has escaped from a facility under  
 4016 the jurisdiction of the Department of Juvenile Justice or who has broken the conditions  
 4017 of supervision. Such term also includes members of the Georgia National Guard, the  
 4018 composition of which is set forth in Code Section 38-2-3, who have been called into  
 4019 active state service by the Governor."

4020 **SECTION 5-98.**

4021 Said title is further amended by revising Code Section 45-18-7, relating to retiring  
 4022 employees, spouses, and dependents and eligibility of employees of state-wide probation  
 4023 system to continue coverage upon retirement from local retirement system, as follows:

4024 "45-18-7.

4025 (a) The contract or contracts shall provide for health insurance for retiring state employees  
 4026 and their spouses and dependent children, as defined by the regulations of the board, on  
 4027 such terms as the board may deem appropriate; and the board may authorize the inclusion  
 4028 in the plan of the employees and retiring employees of state authorities covered by the  
 4029 Employees' Retirement System of Georgia and their spouses and dependent children, as  
 4030 defined by the regulations of the board. Any state authority participating in the plan shall

4031 be required to pay the same rate of contribution paid by the state. The board shall adopt  
 4032 regulations prescribing the conditions under which an employee or retiring employee may  
 4033 elect to participate in or withdraw from the plan.

4034 ~~(b) Employees of the state-wide probation system administered by the Department of  
 4035 Corrections who were employees of a county probation system of a county having a  
 4036 population of 800,000 or more according to the United States decennial census of 2000 or  
 4037 any future such census and who were members of a local retirement system and had ten or  
 4038 more years of creditable service under the local retirement system at the time the county  
 4039 probation system became a part of the state-wide probation system shall be eligible to  
 4040 continue coverage under the health insurance plan for the state employees upon retirement  
 4041 from a local retirement system by paying a premium set by the board. Such retired persons  
 4042 shall be eligible to enroll their spouses and eligible dependents in accordance with the  
 4043 regulations of the board. Such retirees shall be treated in the same manner as other retirees  
 4044 eligible to continue coverage under the Employees' Retirement System of Georgia. The  
 4045 board may promulgate and adopt rules and regulations governing continuance and  
 4046 discontinuance of coverage for such retired persons and their spouses and eligible  
 4047 dependents."~~

4048

#### SECTION 5-99.

4049 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
 4050 amended by revising paragraph (1) of Code Section 48-7-161, relating to definitions, as  
 4051 follows:

4052 "(1) 'Claimant agency' means and includes, in the order of priority set forth below:

4053 (A) The Department of Human Services and the Department of Behavioral Health and  
 4054 Developmental Disabilities with respect to collection of debts under Article 1 of  
 4055 Chapter 11 of Title 19, Code Section 49-4-15, and Chapter 9 of Title 37;

4056 (B) The Georgia Student Finance Authority with respect to the collection of debts  
 4057 arising under Part 3 of Article 7 of Chapter 3 of Title 20;

4058 (C) The Georgia Higher Education Assistance Corporation with respect to the  
 4059 collection of debts arising under Part 2 of Article 7 of Chapter 3 of Title 20;

4060 (D) The Georgia Board for Physician Workforce with respect to the collection of debts  
 4061 arising under Part 6 of Article 7 of Chapter 3 of Title 20;

4062 (E) The Department of Labor with respect to the collection of debts arising under Code  
 4063 Sections 34-8-254 and 34-8-255 and Article 5 of Chapter 8 of Title 34, with the  
 4064 exception of Code Sections 34-8-158 through 34-8-161; provided, however, that the  
 4065 Department of Labor establishes that the debtor has been afforded required due process

4066 rights by such Department of Labor with respect to the debt and all reasonable  
4067 collection efforts have been exhausted;

4068 (F) The Department of ~~Corrections~~ Community Supervision with respect to probation  
4069 fees arising under Code Section 42-8-34 and restitution or reparation ordered by a court  
4070 as a part of the sentence imposed on a person convicted of a crime who is in the legal  
4071 custody of the ~~department; Department of Corrections or the Department of Community~~  
4072 Supervision; and

4073 (G) ~~The State Board of Pardons and Paroles with respect to restitution imposed on a~~  
4074 ~~person convicted of a crime and subject to the jurisdiction of the board; and~~

4075 (H) The Department of Juvenile Justice with respect to restitution imposed on a  
4076 juvenile for a delinquent act which would constitute a crime if committed by an adult."

4077 **SECTION 5-100.**

4078 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
4079 by revising Code Section 49-3-6, relating to the functions of county family and children  
4080 services department, as follows:

4081 "49-3-6.

4082 Subject to the rules and regulations of the Board of Human Services, the county department  
4083 shall be charged with the administration of all forms of public assistance in the county,  
4084 including home relief; indoor and outdoor care for those in need; temporary assistance for  
4085 needy families; old-age assistance; aid to the blind and otherwise disabled; the care and  
4086 treatment of dependent, neglected, delinquent, and disabled children; and such other  
4087 welfare activities as shall be delegated to it by the Department of Human Services or by the  
4088 county commissioners. The county department shall also investigate and pass upon all  
4089 applications for admission to and discharge from county institutions which provide care  
4090 and treatment for indigents. If so appointed by a court of competent jurisdiction, the  
4091 Department of Human Services or the county or district department of family and children  
4092 services shall perform under the supervision of such court the function of juvenile  
4093 probation officer or agent of the court in any welfare or penal matters which may be before  
4094 it."

4095 **SECTION 5-101.**

4096 Said title is further amended by revising subsection (c) of Code Section 49-4A-8, relating to  
4097 commitment of delinquent children, procedure, cost, return of mentally ill or  
4098 developmentally disabled children, escapees, discharge, evidence of commitment, records,  
4099 and restitution, as follows:

4100 "(c) When a court commits a delinquent child to the department, the court shall at once  
 4101 electronically submit a certified copy of the order of commitment to the department, and  
 4102 the court, the juvenile probation officer, the community supervision officer, the prosecuting  
 4103 and police authorities, the school authorities, and other public officials shall make available  
 4104 to the department all pertinent information in their possession pertaining to the case,  
 4105 including, but not limited to, any predisposition investigation report as set forth in Code  
 4106 Section 15-11-590 and any risk assessment. Such reports shall, if the department so  
 4107 requests, be made upon forms furnished by the department or according to an outline  
 4108 provided by the department."

4109 **SECTION 5-102.**

4110 Said title is further amended by revising subsection (c) of Code Section 49-4A-11, relating  
 4111 to aiding or encouraging child to escape and hindering apprehension of child, as follows:

4112 "(c) Any person who shall knowingly hinder the apprehension of any child under the  
 4113 supervision of the Department of Community Supervision or the lawful control or custody  
 4114 of the department who has been placed by the department in one of its institutions or  
 4115 facilities and who has escaped therefrom or who has been placed under supervision and is  
 4116 alleged to have broken the conditions thereof shall be guilty of a felony and, upon  
 4117 conviction thereof, shall be punished by imprisonment for not less than one nor more than  
 4118 five years."

4119 **PART VI**

4120 **EFFECTIVE DATE,**

4121 **APPLICABILITY, AND REPEALER**

4122 **SECTION 6-1.**

4123 This Act shall become effective July 1, 2015, and shall apply to sentences entered on or after  
 4124 such date.

4125 **SECTION 6-2.**

4126 All laws and parts of laws in conflict with this Act are repealed.