

House Bill 743

By: Representatives Stanley of the 49<sup>th</sup>, Stanley of the 50<sup>th</sup>, Lucas of the 124<sup>th</sup>, Epps of the 131<sup>st</sup> and Mobley of the 69<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to  
2 controlled substances, so as to provide a short title; to provide legislative findings; to define  
3 a certain term; to provide that any person convicted of possession or use of a controlled  
4 substance or marijuana shall be entitled to probation; to provide that certain such offenders  
5 shall not be so entitled to probation; to provide the terms of such probation; to provide for  
6 a requirement for drug treatment; to provide for conditions applicable to persons in violation  
7 of probation and for persons convicted more than once; to provide that on a third conviction,  
8 such provisions shall not apply; to provide for applicability; to provide an effective date; to  
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled  
13 substances, is amended by inserting at the end thereof the following:

14 "ARTICLE 6

15 16-13-130.

16 This article shall be known and may be cited as the 'Substance Abuse and Crime Prevention  
17 Act of 2001.'

18 16-13-131.

19 The General Assembly makes the following findings:

20 (1) Substance abuse treatment is a proven public safety and health measure. Nonviolent  
21 drug dependent criminal offenders who receive drug treatment are much less likely to  
22 abuse drugs and commit future crimes and are likelier to live healthier, more stable, and  
23 more productive lives;

1 (2) Community safety and health are promoted, and taxpayer dollars are saved, when  
2 nonviolent persons convicted of drug possession or drug use are provided appropriate  
3 community based treatment instead of incarceration; and

4 (3) In 1996, Arizona voters, by a two-to-one margin, passed the 'Drug Medicalization,  
5 Prevention, and Control Act' which diverted nonviolent drug offenders into drug  
6 treatment and education services rather than incarceration. According to a report prepared  
7 by the Arizona Supreme Court, the Arizona law is 'resulting in safer communities and  
8 more substance abusing probationers in recovery,' has already saved state taxpayers  
9 millions of dollars, and is helping more than 75 percent of program participants to remain  
10 drug free.

11 16-13-132

12 As used in this article, the term 'controlled substance' means a controlled substance as  
13 defined in Code Section 16-13-21.

14 16-13-133.

15 Notwithstanding any law to the contrary, any person who is convicted of the personal  
16 possession or use of a controlled substance or marijuana is eligible for probation. The court  
17 shall suspend the imposition or execution of sentence and place such person on probation.

18 16-13-134.

19 Any person who has been convicted of or indicted for a forcible felony as defined in Code  
20 Section 16-1-3 is not eligible for probation as provided for in this article but instead shall  
21 be sentenced pursuant to the other provisions of this chapter.

22 16-13-135.

23 Personal possession or use of a controlled substance or marijuana pursuant to this article  
24 shall not include possession for sale, production, manufacturing, or transportation for sale  
25 of any controlled substance or marijuana.

26 16-13-136.

27 If a person is convicted of personal possession or use of a controlled substance or  
28 marijuana, as a condition of probation, the court shall require participation in an  
29 appropriate drug treatment or education program administered by a qualified agency or  
30 organization that provides such programs to persons who abuse controlled substances. Each  
31 person enrolled in a drug treatment or education program shall be required to pay for  
32 participation in the program to the extent of the person's financial ability.

1 16-13-137.

2 A person who has been placed on probation under the provisions of this article and who is  
3 determined by the court to be in violation of probation shall have new conditions of  
4 probation established by the court. The court shall select the additional conditions it deems  
5 necessary, including intensified drug treatment, community service, intensive probation,  
6 home arrest, or any other such sanctions short of incarceration.

7 16-13-138.

8 If a person is convicted a second time of personal possession or use of a controlled  
9 substance or marijuana, the court may include additional conditions of probation it deems  
10 necessary, including intensified drug treatment, community service, intensive probation,  
11 home arrest, or any other action within the jurisdiction of the court.

12 16-13-139.

13 A person who has been convicted three times of personal possession or use of a controlled  
14 substance or marijuana is not eligible for probation under the provisions of this article but  
15 instead shall be sentenced pursuant to the other provisions of this chapter."

16 **SECTION 2.**

17 The provisions of this Act shall apply to offenses committed on or after July 1, 2001.

18 **SECTION 3.**

19 This Act shall become effective upon its approval by the Governor or upon its becoming law  
20 without such approval.

21 **SECTION 4.**

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