

House Bill 411 (AM)

By: Representative Stokes of the 92nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 8 of Title 42 of the Official Code of Georgia
2 Annotated, relating to agreements for probation services, so as to change certain
3 provisions relating to agreements between chief judges of county courts or judges of
4 municipal courts and corporations, enterprises, or agencies for probation services; to
5 provide for probation for persons convicted of ordinance violations in county and
6 municipal courts; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Article 6 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating
10 to agreements for probation services, is amended by striking Code Section 42-8-100,
11 relating to agreements between chief judges of county courts or judges of municipal
12 courts and corporations, enterprises, or agencies for probation services, and inserting
13 in lieu thereof the following:

14 "42-8-100.

15 (a) Any county or municipal court which has original jurisdiction of ordinance
16 violations and in which the defendant in such a case has been found guilty upon
17 verdict or plea or has been sentenced upon a plea of nolo contendere, may, at a time
18 to be determined by the court, hear and determine the question of the probation of
19 such defendant.

20 (b) If it appears to the court upon a hearing of the matter that the defendant is not
21 likely to engage in an unlawful course of conduct and that the ends of justice and
22 the welfare of society do not require that the defendant shall presently suffer the
23 penalty imposed by law, the court in its discretion shall impose sentence upon the
24 defendant but may stay and suspend the execution of the sentence or any portion
25 thereof or may place him or her on probation under the supervision and control of
26 a probation supervisor for the duration of such probation, subject to the provisions

1 of this Code section. The period of probation or suspension shall not exceed the
 2 maximum sentence of confinement which could be imposed on the defendant.

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

5 (d) The sentencing judge shall not lose jurisdiction over any person placed on
 6 probation during the term of his or her probated sentence. The judge is empowered
 7 to revoke any or all of the probated sentence, rescind any or all of the sentence, or,
 8 in any manner deemed advisable by the judge, modify or change the probated
 9 sentence at any time during the period of time originally prescribed for the probated
 10 sentence to run.

11 (e) If a defendant is placed on probation pursuant to this Code section by a county
 12 or municipal court other than one for the county or municipality in which he or she
 13 resides for committing any ordinance violation, such defendant may, when
 14 specifically ordered by the court, have his or her probation supervision transferred
 15 to the county or municipality in which he or she resides.

16 (a)(f)(1) The chief judge of any court within the county, with the approval of the
 17 governing authority of that county, is authorized to enter into written contracts
 18 with corporations, enterprises, or agencies to provide probation supervision,
 19 counseling, collection services for all moneys to be paid by a defendant according
 20 to the terms of the sentence imposed on the defendant as well as any moneys
 21 which by operation of law are to be paid by the defendant in consequence of the
 22 conviction, and other probation services for persons convicted of a misdemeanor
 23 in that court and placed on probation in the county. In no case shall a private
 24 probation corporation or enterprise be charged with the responsibility for
 25 supervising a felony sentence. The final contract negotiated by the chief judge
 26 with the private probation entity shall be attached to the approval by the governing
 27 authority of the county to privatize probation services as an exhibit thereto. The
 28 termination of a contract for probation services as provided for in this subsection
 29 entered into on or after July 1, 2001, shall be initiated by the chief judge of the
 30 court which entered into the contract, and subject to approval by the governing
 31 authority of the county which entered into the contract and in accordance with the
 32 agreed upon, written provisions of such contract. The termination of a contract for
 33 probation services as provided for in this subsection in existence on July 1, 2001,
 34 and which contains no provisions relating to termination of such contract shall be
 35 initiated by the chief judge of the court which entered into the contract, and
 36 subject to approval by the governing authority of the county which entered into

1 the contract and in accordance with the agreed upon, written provisions of such
2 contract.

3 (2) The chief judge of any court within the county, with the approval of the
4 governing authority of that county, is authorized to establish a county probation
5 system to provide probation supervision, counseling, collection services for all
6 moneys to be paid by a defendant according to the terms of the sentence imposed
7 on the defendant as well as any moneys which by operation of law are to be paid
8 by the defendant in consequence of the conviction, and other probation services
9 for persons convicted of a misdemeanor in that court and placed on probation in
10 the county.

11 ~~(b)~~(g)(1) The judge of the municipal court of any municipality or consolidated
12 government of a municipality and county of this state, with the approval of the
13 governing authority of that municipality or consolidated government, is authorized
14 to enter into written contracts with private corporations, enterprises, or agencies
15 to provide probation supervision, counseling, collection services for all moneys
16 to be paid by a defendant according to the terms of the sentence imposed and any
17 moneys which by operation of law are to be paid by the defendant in consequence
18 of the conviction, and other probation services for persons convicted in such court
19 and placed on probation. The final contract negotiated by the judge with the
20 private probation entity shall be attached to the approval by the governing
21 authority of the municipality or consolidated government to privatize probation
22 services as an exhibit thereto.

23 (2) The judge of the municipal court of any municipality or consolidated
24 government of a municipality and county of this state, with the approval of the
25 governing authority of that municipality or consolidated government, is authorized
26 to establish a probation system to provide probation supervision, counseling,
27 collection services for all moneys to be paid by a defendant according to the terms
28 of the sentence imposed and any moneys which by operation of law are to be paid
29 by the defendant in consequence of the conviction, and other probation services
30 for persons convicted in such court and placed on probation."

31 SECTION 2.

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