

HOUSE SUBSTITUTE TO SENATE BILL 34

A BILL TO BE ENTITLED
AN ACT

1 To amend numerous provisions of the Official Code of Georgia Annotated so as to
2 strengthen and clarify punishment provisions in various Code sections; to provide a short
3 title; to amend Code Section 16-10-52 of the Official Code of Georgia Annotated, relating
4 to the offense of escape, so as to change certain provisions relating to punishment; to amend
5 Code Section 16-5-70 of the Official Code of Georgia Annotated, relating to the offense of
6 cruelty to children, so as to make second degree cruelty to children a separate offense from
7 family violence battery; to amend Chapter 6 of Title 16 of the Official Code of Georgia
8 Annotated, relating to sexual offenses, so as to change provisions relating to forfeiture of
9 motor vehicles; to provide a forfeiture procedure for violation of Code Section 16-6-10
10 involving minors; to amend Code Sections 17-10-1 and 42-8-34 of the Official Code of
11 Georgia Annotated, relating to sentencing and probation, respectively, so as to allow the trial
12 court to have jurisdiction over any person placed on probation; to amend Code Section
13 42-8-34.1 of the Official Code of Georgia Annotated, relating to revocation of probated or
14 suspended sentences, so as to change the penalties authorized for imposition upon proof of
15 a defendant's violation of probation or suspension; to provide a definition; to provide for a
16 maximum sentence for a violation of probation or suspension which is the commission of a
17 felony offense; to provide a sentence authorized for a violation of a special condition of
18 probation or suspension; to provide for related matters; to provide for an effective date and
19 for applicability; to repeal conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **SECTION 1.**

22 This Act shall be known and may be cited as the "2001 Crime Prevention Act."

23 **SECTION 2.**

24 Code Section 16-10-52 of the Official Code of Georgia Annotated, relating to the offense of
25 escape, is amended by striking subsection (b) and inserting in lieu thereof the following:

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1 misdemeanor or felony, and after a presentence hearing, the judge fixing the sentence
 2 shall prescribe a determinate sentence for a specific number of months or years which
 3 shall be in conformity with any mandatory minimum sentences required by law or shall
 4 be within the minimum and maximum prescribed by law as the punishment for the crime.
 5 The judge imposing the sentence is granted power and authority to suspend or probate all
 6 or any part of the entire sentence under such rules and regulations as the judge deems
 7 proper, including the authority to revoke the suspension or probation when the defendant
 8 has violated any of the rules and regulations prescribed by the court, even before the
 9 probationary period has begun, subject to the conditions set out in this subsection;
 10 provided, however, that such action shall be subject to the provisions of Code Section
 11 17-10-6.1.

12 (2) Probation supervision shall terminate in all cases no later than two years from the
 13 commencement of probation supervision unless specially extended or reinstated by the
 14 sentencing court upon notice and hearing and for good cause shown; provided, however,
 15 in those cases involving the collection of fines, restitution, or other funds, the period of
 16 supervision shall remain in effect for so long as any such obligation is outstanding, or
 17 until termination of the sentence, whichever first occurs. Probation supervision shall not
 18 be required for defendants sentenced to probation while the defendant is in the legal
 19 custody of the Department of Corrections or the State Board of Pardons and Paroles.

20 (3)(A) Any part of a sentence of probation revoked for a violation other than a
 21 subsequent commission of any felony, a violation of a special condition, or a
 22 misdemeanor offense involving physical violence resulting in bodily injury to an
 23 innocent victim which in the opinion of the trial court constitutes a danger to the
 24 community or a serious infraction occurring while the defendant is assigned to an
 25 alternative probation confinement facility shall be served in a probation detention
 26 center, probation boot camp, diversion center, weekend lock up, or confinement in a
 27 local jail or detention facility, or other community correctional alternatives available
 28 to the court or provided by the Department of Corrections."

29 SECTION 5.

30 Code Section 42-8-34 of the Official Code of Georgia Annotated, relating to probation, is
 31 amended by striking subsection (g) and inserting in lieu thereof a new subsection (g) to read
 32 as follows:

33 "(g) The sentencing judge shall ~~not lose~~ retain jurisdiction over any person placed on
 34 probation ~~during the term of his probated sentence~~. The judge is empowered to revoke any
 35 or all of the probated sentence, rescind any or all of the sentence, or, in any manner deemed

1 of the sentence and require the defendant to serve the balance or portion of the balance of
2 the original sentence in confinement.

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

9 ~~(e)~~(g) In no event shall an offender be supervised on probation for more than a total of two
10 years for any one offense or series of offenses arising out of the same transaction, whether
11 before or after confinement, except as provided by paragraph (2) of subsection (a) of Code
12 Section 17-10-1."

13 **SECTION 7.**

14 This Act shall become effective July 1, 2001, and shall apply to offenses of escape and
15 cruelty to children in the second degree committed on or after July 1, 2001.

16 **SECTION 8.**

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