

Senate Bill 13

By: Senator Crotts of the 17th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, the
 2 "State-wide Probation Act," so as to provide for the inapplicability of certain provisions of
 3 that article when probation services are provided through contractual agreements; to amend
 4 Article 6 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to
 5 agreements for probation services, so as to change certain provisions relating to agreements
 6 between chief judges of county courts or judges of municipal courts and corporations,
 7 enterprises, or agencies for probation services; to provide for probation for persons convicted
 8 of ordinance violations in county and municipal courts; to repeal conflicting laws; and for
 9 other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, the "State-wide
 13 Probation Act," is amended by striking Code Section 42-8-30.1, relating to the inapplicability
 14 of that article when probation services are provided through contractual agreements, and
 15 inserting in its place the following:

16 "42-8-30.1.

17 In any county where the ~~judge of the~~ chief judge of the superior court, state court,
 18 municipal court, probate court, or ~~chief magistrate of the~~ magistrate court has provided for
 19 probation services for ~~either or both of such courts~~ court through agreement with a private
 20 corporation, enterprise, or agency or has established a county or municipal probation
 21 system for ~~either or both of such courts~~ court pursuant to Code Section 42-8-100, the
 22 provisions of this article relating to probation supervision services shall not apply to
 23 defendants sentenced in any such court."

SECTION 2.

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

"42-8-100.

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

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

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

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

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

~~(a)~~(f)(1) The chief judge of any court within the county, with the approval of the governing authority of that county, is authorized to enter into written contracts with corporations, enterprises, or agencies to provide probation supervision, counseling, collection services for all moneys to be paid by a defendant according to the terms of the sentence imposed on the defendant as well as any moneys which by operation of law are

1 to be paid by the defendant in consequence of the conviction, and other probation
 2 services for persons convicted of a misdemeanor in that court and placed on probation in
 3 the county. In no case shall a private probation corporation or enterprise be charged with
 4 the responsibility for supervising a felony sentence. The final contract negotiated by the
 5 chief judge with the private probation entity shall be attached to the approval by the
 6 governing authority of the county to privatize probation services as an exhibit thereto.
 7 The termination of a contract for probation services as provided for in this subsection
 8 entered into on or after July 1, 2001, shall be initiated by the chief judge of the court
 9 which entered into the contract, and subject to approval by the governing authority of the
 10 county which entered into the contract and in accordance with the agreed upon, written
 11 provisions of such contract. The termination of a contract for probation services as
 12 provided for in this subsection in existence on July 1, 2001, and which contains no
 13 provisions relating to termination of such contract shall be initiated by the chief judge of
 14 the court which entered into the contract, and subject to approval by the governing
 15 authority of the county which entered into the contract and in accordance with the agreed
 16 upon, written provisions of such contract.

17 (2) The chief judge of any court within the county, with the approval of the governing
 18 authority of that county, is authorized to establish a county probation system to provide
 19 probation supervision, counseling, collection services for all moneys to be paid by a
 20 defendant according to the terms of the sentence imposed on the defendant as well as any
 21 moneys 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 in that
 23 court and placed on probation in the county.

24 ~~(b)~~(g)(1) The judge of the municipal court of any municipality or consolidated
 25 government of a municipality and county of this state, with the approval of the governing
 26 authority of that municipality or consolidated government, is authorized to enter into
 27 written contracts with private corporations, enterprises, or agencies to provide probation
 28 supervision, counseling, collection services for all moneys to be paid by a defendant
 29 according to the terms of the sentence imposed and any moneys which by operation of
 30 law are to be paid by the defendant in consequence of the conviction, and other probation
 31 services for persons convicted in such court and placed on probation. The final contract
 32 negotiated by the judge with the private probation entity shall be attached to the approval
 33 by the governing authority of the municipality or consolidated government to privatize
 34 probation services as an exhibit thereto.

35 (2) The judge of the municipal court of any municipality or consolidated government of
 36 a municipality and county of this state, with the approval of the governing authority of
 37 that municipality or consolidated government, is authorized to establish a probation

1 system to provide probation supervision, counseling, collection services for all moneys
2 to be paid by a defendant according to the terms of the sentence imposed and any moneys
3 which by operation of law are to be paid by the defendant in consequence of the
4 conviction, and other probation services for persons convicted in such court and placed
5 on probation."

6 **SECTION 3.**

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