

House Bill 272

By: Representatives Bannister of the 70th, Post 1, Parsons of the 29th, Rice of the 64th, Williams of the 61st, Post 2 and Mitchell of the 61st, Post 3

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to
2 general provisions regarding penal institutions, so as to change certain provisions relating to
3 the home arrest program; to authorize additional types of supervision; to authorize home
4 arrest for pretrial arrestees; to change the qualifications for home arrest programs; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to general
9 provisions regarding penal institutions, is amended by striking Code Section 42-1-8, relating
10 to home arrest programs, and inserting in its place a new Code Section 42-1-8 to read as
11 follows:

12 "42-1-8.

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

14 (1) 'Educational program' means a program of learning recognized by the State Board
15 of Education.

16 (2) 'Habilitative program' means and includes an alcohol or drug treatment program,
17 mental health program, family counseling, community service, or any other community
18 program ordered or approved by the court having jurisdiction over the offender or by the
19 sheriff.

20 (3) 'Home arrest' means an electronic monitoring of an offender, or other court approved
21 supervision of an offender, at a residence approved and accepted by the court, the sheriff,
22 or the director or administrator of the home arrest program.

23 (b) Notwithstanding the provisions of Code Section 42-1-4, any person who is confined
24 in a county jail (1) after conviction and sentencing, (2) pending completion of a
25 presentencing report, ~~or~~ (3) after return for a violation of the terms of probation, or (4) after
26 arrest, but prior to conviction, may, in the discretion of the sheriff and subject to the

1 eligibility requirements set forth in subsection (d) of this Code section, be assigned to a
 2 home arrest program under supervision of the sheriff. If it appears to the court that an
 3 offender subject to its jurisdiction is a suitable candidate for a home arrest program, the
 4 court may, subject to the eligibility requirements of subsection (d) of this Code section,
 5 order the offender to a home arrest program. Further, the sheriff or the court may authorize
 6 the offender to participate in educational or other habilitative programs designed to
 7 supplement home arrest.

8 (c) Whenever the sheriff assigns an offender to home arrest, the court which sentenced
 9 such offender or before which such offender's case is pending shall be notified in writing
 10 by the sheriff or the director or administrator of the home arrest program to which the
 11 offender is assigned of the offender's place of employment and the location of any
 12 educational or habilitative program in which the offender participates. The court, in its
 13 discretion, may revoke the authority for any offender to participate in home arrest, whether
 14 such offender was assigned to home arrest by the court or the sheriff. The sheriff or home
 15 arrest director or administrator may enter into an agreement to accept into the local home
 16 arrest program offenders who are sentenced to home arrest or who have met all home arrest
 17 standards.

18 (d) In order to qualify for assignment to a home arrest program, an offender:

19 (1) May not be subject to any outstanding warrants or orders from any other court or law
 20 enforcement agency; or

21 (2) Shall not have any criminal record or any history within the preceding five years of
 22 any assaultive offenses of an aggravated nature, including, but not limited to, aggravated
 23 assault; aggravated battery; rape; child molestation; robbery; trafficking or distribution
 24 of a controlled substance or marijuana; homicide by vehicle; felony bail-jumping; or
 25 escape; ~~or~~

26 ~~(3) May not have any life-threatening illnesses or disabilities that would interfere with~~
 27 ~~the ability to work on a regular schedule.~~

28 (e) An offender's employment under this Code section shall be with a legitimate,
 29 recognized, and established employer. An offender assigned to a home arrest program who,
 30 without proper authority, leaves his or her home or the work area to which he or she is
 31 assigned, who leaves or fails to attend an assigned educational or other rehabilitative
 32 program, or who leaves the vehicle or route of travel in going to or returning from his or
 33 her assigned place of work shall be guilty of a misdemeanor. If the offender leaves the
 34 county or the area of restriction, he or she may be found guilty of escape under Code
 35 Section 16-10-52. An offender who is found guilty of a misdemeanor under this subsection
 36 or of escape shall be ineligible for further participation in a home arrest program during his
 37 or her current term of confinement.

1 (f) Any wages earned by an offender in home arrest under this Code section may, upon
2 order of the court or the sheriff, be paid to the director or administrator of the home arrest
3 program after standard payroll deductions required by federal or state law have been
4 withheld. Distribution of such wages shall be made for the following purposes:

5 (1) To defray the cost of home arrest electronic monitoring equipment and supervision
6 provided by the local jail or detention center, or to pay for any damage to the monitoring
7 equipment in the offender's possession or the failure to return the equipment to the
8 program;

9 (2) To pay travel and other such expenses of the offender necessitated by his or her home
10 arrest employment or participation in an educational or rehabilitative program;

11 (3) To provide support and maintenance for the offender's dependents or to make
12 payments to the local department of family and children services or probation, as
13 appropriate, on behalf of any offender's dependents receiving public assistance;

14 (4) To pay any fines, restitution, or other costs ordered by the court; and

15 (5) Any balance remaining after payment of costs and expenses listed in paragraphs (1)
16 through (4) of this subsection shall be retained to the credit of the offender and shall be
17 paid to him or her upon release from confinement.

18 (g) No offender participating in home arrest pursuant to this Code section shall be deemed
19 to be an agent, employee, or involuntary servant of the county while working or
20 participating in educational or other habilitative programs or while traveling to or from the
21 place of employment.

22 (h) Local jails shall qualify for compensation for costs of incarceration of all persons
23 pursuant to this Code section, less any payments from the offender pursuant to subsection

24 (f) of this Code section."

25 SECTION 2.

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