

House Bill 1154

By: Representatives Powell of the 23rd, DeLoach of the 127th, O'Neal of the 117th, Parham of the 94th, Reece of the 21st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 42 of the Official Code of Georgia Annotated, relating to penal institutions,
2 so as to create the Department of Probation/Parole Community Based Supervision; to provide
3 for the responsibilities of the department with respect to supervision of probationers and
4 parolees; to transfer responsibility of certain functions of probation and parole supervision
5 to the department; to provide for the selection, service, and powers and duties of the director
6 and employees of the department; to provide for rules and regulations and forms; to provide
7 for administration; to authorize appropriation of funds; to provide for transfer of prior
8 appropriations; to provide for transfer of personnel, equipment, and facilities; to amend Title
9 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, to correct
10 cross-references; to amend Title 17 of the Official Code of Georgia Annotated, relating to
11 criminal procedure, so as to change provisions relating to imposition and service of split
12 sentences; to provide for sentencing orders and their terms and effect; to provide that where
13 a person is sentenced to a term of imprisonment followed by a period of probation and the
14 person is paroled or released prior to service of the full period of imprisonment, the person
15 shall be subject to an increased period of probation and probation supervision but shall not
16 be subject to supervision by the Board of Pardons and Paroles; to make corresponding
17 changes with respect to the jurisdiction and authority of the State Board of Pardons and
18 Paroles; to amend Titles 19, 40, and 45 of the Official Code of Georgia Annotated, relating
19 to domestic relations, motor vehicles and traffic, and public officers and employees,
20 respectively, so as to provide for certain changes in the administrative organization of the
21 Department of Corrections and the Board of Pardons and Paroles and to provide for
22 conforming amendments; to provide for related matters; to provide for an effective date and
23 applicability; to repeal conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1 attached to corrections for administrative purposes only, as provided in Code Section
2 50-4-3.

3 (b) The director shall receive an annual salary to be set by the Governor which shall be his
4 or her total compensation for services as director. The director shall be reimbursed for all
5 actual and necessary expenses incurred by him or her in carrying out his or her official
6 duties.

7 (c) The duties of the department shall be performed by that department and not by any
8 other agency of state government, and the department shall not perform the duties of any
9 other agency of state government. The position of director of the department shall be a
10 separate and distinct position from any other position in state government. The duties of
11 the director shall be performed by the director and not by any other officer of state
12 government, and the director shall not perform the duties of any other officer of state
13 government.

14 42-14-4.

15 (a) The director shall establish units within the department as he or she deems proper for
16 its administration and shall designate persons to be assistant directors of each unit and to
17 exercise authority as he or she may delegate to them in writing.

18 (b) The director shall have the authority to employ as many persons as he or she deems
19 necessary for the administration of the department and for the discharge of the duties of his
20 or her office. The director shall issue all necessary directions, instructions, orders, and rules
21 applicable to employees of the department. The director shall have authority, as the director
22 deems proper, to employ, assign, compensate, and discharge employees of the department
23 within the limitations of the department's appropriation and the restrictions set forth by
24 law.

25 (c) All employees of the department shall be compensated upon a fixed salary basis, and
26 no person shall be compensated for services to the department on a commission or
27 contingent fee basis.

28 (d) Neither the director nor any officer or employee of the department shall be given or
29 receive any fee, compensation, loan, gift, or other thing of value in addition to the
30 compensation and expense allowance provided by law for any service or pretended service
31 either rendered or to be rendered as director or as an officer or employee of the department.

32 42-14-5.

33 (a) The director shall have the power to make and publish reasonable rules and regulations
34 not inconsistent with this title or other laws or with the Constitution of this state or of the

1 United States for the administration of this chapter or any law which it is his or her duty
2 to administer.

3 (b) The director may prescribe forms as he or she deems necessary for the administration
4 and enforcement of this chapter and Chapters 8 and 9 of this title or any law which it is his
5 or her duty to administer.

6 (c) The following rules and regulations shall remain of full force and effect as rules and
7 regulations of the department until amended, repealed, or superseded by rules or
8 regulations adopted by the director of the department:

9 (1) All rules and regulations previously adopted by the Advisory Council for Probation
10 which relate to functions transferred under this chapter from the state-wide probation
11 system to the department;

12 (2) All rules and regulations previously adopted by corrections which relate to functions
13 transferred under this chapter from corrections to the department; and

14 (3) All rules and regulations previously adopted by the board which relate to functions
15 transferred under this chapter from the board to the department.

16 42-14-6.

17 (a) Appropriations to corrections and the board for functions transferred to the department
18 pursuant to this chapter may be transferred to the department as provided for in Code
19 Section 45-12-90. Personnel, equipment, and facilities previously employed by corrections
20 and the board for transferred functions shall likewise be transferred to the department. Any
21 disagreement as to any of the transfers shall be resolved by the Governor.

22 (b) The enactment of this chapter and the Act by which it is enacted shall not affect or
23 abate the status of a probation revocation or parole revocation which occurred prior to July
24 1, 2004."

25 **SECTION 2.**

26 Said title is further amended by striking Code Section 42-1-10, relating to preliminary urine
27 screen drug tests, and inserting in lieu thereof the following:

28 "42-1-10.

29 (a) Any probation/parole supervisor, probation officer, ~~parole officer~~, or other official or
30 employee of the Department of Corrections or the Department of Probation/Parole
31 Community Based Supervision who supervises any person covered under the provisions
32 of paragraphs (1) through (7) of this subsection shall be exempt from the provisions of
33 Chapter 22 of Title 31 for the limited purposes of administering a preliminary urine screen
34 drug test to any person who is:

35 (1) Incarcerated;

- 1 (2) Released as a condition of probation for a felony or misdemeanor;
- 2 (3) Released as a condition of conditional release;
- 3 (4) Released as a condition of parole;
- 4 (5) Released as a condition of provisional release;
- 5 (6) Released as a condition of pretrial release; or
- 6 (7) Released as a condition of control release.
- 7 (b) The Department of Corrections, the Department of Probation/Parole Community Based
- 8 Supervision, and the State Board of Pardons and Paroles shall develop a procedure for the
- 9 performance of preliminary urine screen drug tests in accordance with the manufacturer's
- 10 standards for certification. Probation officers, probation/parole officers supervisors, or
- 11 other officials or employees of the Department of Corrections or the Department of
- 12 Probation/Parole Community Based Supervision who are supervisors of any person
- 13 covered under paragraphs (1) through (7) of subsection (a) of this Code section shall be
- 14 authorized to perform preliminary urine screen drug tests in accordance with such
- 15 procedure. Such procedure shall include instructions as to a confirmatory test by a licensed
- 16 clinical laboratory where necessary."

17 SECTION 3.

18 Said title is further amended by striking Code Section 42-8-2, relating to the Advisory

19 Council for Probation's duties and responsibilities, and inserting in lieu thereof the

20 following:

21 "42-8-2.

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

23 (1) 'Board' means the Board of Corrections.

24 (2) 'Corrections' means the Department of Corrections.

25 (3) 'Department' means the Department of Probation/Parole Community Based

26 Supervision.

27 (b) The Advisory Council for Probation shall meet, consult, and advise with the Board of

28 Corrections board, the department, and the Department of Corrections corrections on

29 questions and matters of mutual concern and interest relative to policy, personnel, and

30 budget which pertain to probationary activities, powers, duties, and responsibilities of the

31 board, and the department, and corrections. The advisory council shall institute such studies

32 and surveys and shall make such recommendations to the board, corrections, and the

33 department as the council deems wise and necessary and which, in the opinion of the

34 council, will improve the effectiveness and efficiency of probation services rendered

35 throughout the state. No change in existing policy of the board, corrections, or the

36 department relative to probation, if the magnitude of the change will result in a significant

1 impact upon state-wide probationary services, or any such new policy, shall be instituted
 2 by the board, corrections, or the department without opportunity being afforded to the
 3 advisory council to advise and consult with the board, corrections, or the department on the
 4 proposed changes. However, the recommendations of the advisory council shall be
 5 advisory only and shall not bind the board, corrections, or the department. The board,
 6 corrections, the department, and the council shall meet periodically throughout each year
 7 for the purpose of improving the administration, efficiency, and effectiveness of probation
 8 services."

9 SECTION 4.

10 Said title is further amended by striking Code Section 42-8-21, relating to definitions in the
 11 "State-wide Probation Act," and inserting in lieu thereof the following:

12 "42-8-21.

13 As used in this article, the term:

14 (1) 'Board' means the Board of Corrections.

15 (2) 'Commissioner' means the commissioner of corrections.

16 (3) 'Department' means the Department of ~~Corrections~~ Probation/Parole Community
 17 Based Supervision.

18 (4) 'Split sentence' means any felony sentence that includes a term of imprisonment
 19 followed by a term of probation."

20 SECTION 5.

21 Said title is further amended by striking Code Section 42-8-22, relating to creation and
 22 administration of the state-wide probation system, and inserting in lieu thereof the following:

23 "42-8-22.

24 There is created a state-wide probation system for felony offenders to be administered by
 25 the Department of ~~Corrections~~ Probation/Parole Community Based Supervision. The
 26 probation system shall not be administered as part of the duties and activities of the State
 27 Board of Pardons and Paroles; but with respect to a split sentence imposed on or after July
 28 1, 2004, the department shall have jurisdiction over any increased period of probation
 29 resulting from a release of the defendant by the State Board of Pardons and Paroles as
 30 provided for in Code Section 17-10-1.3. Separate files and records shall be kept with
 31 relation to the system."

32 SECTION 6.

33 Said title is further amended by striking Code Section 42-8-24, relating to the general duties
 34 of the department and rules and regulations, and inserting in lieu thereof the following:

1 "42-8-24.

2 It shall be the duty of the department to supervise and direct the work of the
3 probation/parole supervisors provided for in Code Section 42-8-25 and to keep accurate
4 files and records on all probation cases, split sentence probation cases, parole cases,
5 persons released pursuant to Code Section 17-10-1, and persons ~~on probation~~ under
6 supervision. It shall be the duty of the board to promulgate rules and regulations necessary
7 to effectuate the purposes of this chapter."

8 **SECTION 7.**

9 Said title is further amended by striking Code Section 42-8-25, relating to the employment
10 of probation supervisors and assignment to circuits, and inserting in lieu thereof the
11 following:

12 "42-8-25.

13 The department shall employ probation/parole supervisors. The department may assign one
14 supervisor to each judicial circuit in this state or, for purposes of assignment, may
15 consolidate two or more judicial circuits and assign one supervisor thereto. In the event the
16 department determines that more than one supervisor is needed for a particular circuit, an
17 additional supervisor or additional supervisors may be assigned to the circuit. The
18 department is authorized to direct any probation/parole supervisor to assist any other
19 probation/parole supervisor wherever assigned. In the event that more than one supervisor
20 is assigned to the same office or to the same division within a particular judicial circuit, the
21 department shall designate one of the supervisors to be in charge."

22 **SECTION 8.**

23 Said title is further amended by striking Code Section 42-8-26, relating to the qualifications
24 of probation supervisors, compensation, expenses, conflicts of interest, and bond, and
25 inserting in lieu thereof the following:

26 "42-8-26.

27 (a) In order for a person to hold the office of probation/parole supervisor, he or she must
28 be at least 21 years of age at the time of appointment and must have completed a standard
29 two-year college course, provided that any person who is employed as a probation
30 supervisor on or before July 1, 1972, shall not be required to meet the educational
31 requirements specified in this Code section, nor shall he or she be prejudiced in any way
32 for not possessing the requirements. The qualifications provided in this Code section are
33 the minimum qualifications and the department is authorized to prescribe such additional
34 and higher educational qualifications from time to time as it deems desirable, but not to
35 exceed a four-year standard college course.

1 (b) The compensation of the probation/parole supervisors shall be set by the State
 2 Personnel Board and the State Merit System of Personnel Administration. Probation/parole
 3 supervisors shall also be allowed travel and other expenses as are other state employees.

4 (c)(1) No supervisor shall engage in any other employment, business, or activities which
 5 interfere or conflict with his or her duties and responsibilities as probation/parole
 6 supervisor.

7 (2) No supervisor shall own, operate, have any financial interest in, be an instructor at,
 8 or be employed by any private entity which provides drug or alcohol education services
 9 or offers a DUI Alcohol or Drug Use Risk Reduction Program certified by the
 10 Department of Human Resources.

11 (3) No supervisor shall specify, directly or indirectly, a particular DUI Alcohol or Drug
 12 Use Risk Reduction Program which a probationer may or shall attend. This paragraph
 13 shall not prohibit any supervisor from furnishing any probationer, upon request, the
 14 names of certified DUI Alcohol or Drug Use Risk Reduction Programs. Any supervisor
 15 violating this paragraph shall be guilty of a misdemeanor.

16 (d) Each probation/parole supervisor shall give bond in such amount as may be fixed by
 17 the department payable to the department for the use of the person or persons damaged by
 18 his or her misfeasance or malfeasance and conditioned on the faithful performance of his
 19 or her duties. The cost of the bond shall be paid by the department; provided, however, that
 20 the bond may be procured, either by the department or by the Department of
 21 Administrative Services, under a master policy or on a group blanket coverage basis, where
 22 only the number of positions in each judicial circuit and the amount of coverage for each
 23 position are listed in a schedule attached to the bond; and in such case each individual shall
 24 be fully bonded and bound as principal, together with the surety, by virtue of his or her
 25 holding the position or performing the duties of probation/parole supervisor in the circuit
 26 or circuits, and his or her individual signature shall not be necessary for such bond to be
 27 valid in accordance with all the laws of this state. The bond or bonds shall be made payable
 28 to the department."

29 SECTION 9.

30 Said title is further amended by striking Code Section 42-8-27, relating to the duties
 31 probation supervisors, and inserting in lieu thereof the following:

32 "42-8-27.

33 The probation/parole supervisor shall supervise and counsel probationers in the judicial
 34 circuit to which he or she is assigned. Each supervisor shall perform the duties prescribed
 35 in this chapter and ~~such~~ other duties as are prescribed by the department and shall keep
 36 ~~such~~ records and files and make ~~such~~ any reports as are required of him or her."

1 forwarded to any division or office designated by the commissioner. Accompanying this
 2 document or evaluation will be the case history form and the criminal history sheets from
 3 the Federal Bureau of Investigation or the Georgia Crime Information Center, if available,
 4 unless any ~~such~~ of this information has previously been sent to ~~the department~~ corrections
 5 pursuant to Code Section 42-5-50. A copy of these same documents shall be made
 6 available for the State Board of Pardons and Paroles. A copy of one or more of these
 7 documents, based on need, may be forwarded to another institution to which the defendant
 8 may be committed.

9 (b) The prison or institution receiving these documents shall maintain the confidentiality
 10 of the documents and the information contained therein and shall not send them or release
 11 them or reveal them to any other person, institution, or agency without the express consent
 12 of the ~~probation~~ unit which originated or accumulated the documents."

13 SECTION 13.

14 Said title is further amended by striking Code Section 42-8-30, relating to supervision of
 15 juvenile offenders by probation supervisors, and inserting in lieu thereof the following:

16 "42-8-30.

17 In the counties where no juvenile probation system exists, juvenile offenders, upon
 18 direction of the court, shall be supervised by probation/parole supervisors. Other than in
 19 this respect, nothing in this article shall be construed to change or modify any law relative
 20 to probation as administered by any juvenile court in this state."

21 SECTION 14.

22 Said title is further amended by striking Code Section 42-8-31, relating to collection and
 23 disbursement of funds by probation supervisors, record keeping, and bank accounts, and
 24 inserting in lieu thereof the following:

25 "42-8-31.

26 No probation/parole supervisor shall collect or disburse any funds whatsoever, except by
 27 written order of the court; and it shall be the duty of the supervisor to transmit a copy of
 28 the order to the department not later than 15 days after it has been issued by the court.
 29 Every supervisor who collects or disburses any funds whatsoever shall faithfully keep the
 30 records of accounts as are required by the department, which records shall be subject to
 31 inspection by the department at any time. In every instance where a bank account is
 32 required, it shall be kept in the name of the 'State Probation Office.'"

1 supervisor's recommendation; and it shall be the duty of the supervisor to carry out the
2 directive of the court.

3 (c) Subject to the provisions of subsection (a) of Code Section 17-10-1 and subsection (f)
4 of Code Section 17-10-3, if it appears to the court upon a hearing of the matter that the
5 defendant is not likely to engage in a criminal course of conduct and that the ends of justice
6 and the welfare of society do not require that the defendant shall presently suffer the
7 penalty imposed by law, the court in its discretion shall impose sentence upon the
8 defendant but may stay and suspend the execution of the sentence or any portion thereof
9 or may place ~~him~~ the defendant on probation under the supervision and control of the
10 probation/parole supervisor for the duration of ~~such probation~~ the sentence. The period of
11 probation or suspension shall not exceed the maximum sentence of confinement which
12 could be imposed on the defendant.

13 (d)(1) In every case that a court of this state or any other state sentences a defendant to
14 probation or any pretrial release or diversion program under the supervision of ~~the~~
15 department corrections, in addition to any fine or order of restitution imposed by the
16 court, there shall be imposed a probation fee as a condition of probation, release, or
17 diversion in the amount equivalent to \$23.00 per each month under supervision, and in
18 addition, a one-time fee of \$50.00 where such defendant was convicted of any felony.
19 The probation fee may be waived or amended after administrative process by the
20 department and approval of the court, or upon determination by the court, as to the undue
21 hardship, inability to pay, or any other extenuating factors which prohibit collection of
22 the fee; provided, however, that the imposition of sanctions for failure to pay fees shall
23 be within the discretion of the court through judicial process or hearings. Probation fees
24 shall be waived on probationers incarcerated or detained in a ~~departmental~~ corrections or
25 other confinement facility which prohibits employment for wages. All probation fees
26 collected by the department shall be paid into the general fund of the state treasury,
27 except as provided in subsection (f) of Code Section 17-15-13, relating to sums to be paid
28 into the Georgia Crime Victims Emergency Fund.

29 (2) In addition to any other provision of law, any person convicted of a violation of Code
30 Section 40-6-391 or subsection (b) of Code Section 16-13-2 who is sentenced to
31 probation or a suspended sentence by a municipal, magistrate, probate, state, or superior
32 court shall also be required by the court to pay a one-time fee of \$25.00. The clerk of
33 court, or if there is no clerk the person designated to collect fines, fees, and forfeitures for
34 such court, shall collect such fee and remit the same to the general fund of the state
35 treasury not later than the tenth day of the month after such fee is collected and shall be
36 subject to rule and attachment in the same manner as clerks of superior court for failure
37 to so collect and remit."

1 (9) Repay the costs incurred by any municipality or county for wrongful actions by an
 2 inmate covered under the provisions of paragraph (1) of subsection (a) of Code Section
 3 42-4-71;

4 (10) Support his or her legal dependents to the best of his or her ability;

5 (11) Violate no local, state, or federal laws and be of general good behavior; and

6 (12) If permitted to move or travel to another state, agree to waive extradition from any
 7 jurisdiction where he or she may be found and not contest any effort by any jurisdiction
 8 to return him or her to this state."

9 SECTION 20.

10 Said title is further amended by striking Code Section 42-8-35.1, relating to special
 11 alternative incarceration, and inserting in lieu thereof the following:

12 "42-8-35.1.

13 (a) In addition to any other terms or conditions of probation provided for under this
 14 chapter, the trial judge may provide that probationers sentenced for felony offenses
 15 committed on or after July 1, 1993, to a period of time of not less than one year on
 16 probation as a condition of probation must satisfactorily complete a program of
 17 confinement in a 'special alternative incarceration—probation boot camp' unit of ~~the~~
 18 ~~department~~ corrections for a period of 120 days computed from the time of initial
 19 confinement in the unit; provided, however, ~~the department~~ that corrections may release
 20 the defendant upon service of 90 days in recognition of excellent behavior.

21 (b) Before a court can place this condition upon the sentence, an initial investigation ~~will~~
 22 shall be completed by the probation/parole supervisor ~~officer~~ which will indicate that the
 23 probationer is qualified for such treatment in that the individual does not appear to be
 24 physically or mentally disabled in a way that would prevent him or her from strenuous
 25 physical activity, that the individual has no obvious contagious diseases, that the individual
 26 is not less than 17 years of age nor more than 30 years of age at the time of sentencing, and
 27 that ~~the department~~ corrections has granted provisional approval of the placement of the
 28 individual in the 'special alternative incarceration—probation boot camp' unit.

29 (c) In every case where an individual is sentenced under the terms of this Code section, the
 30 sentencing court shall, within its probation order, direct ~~the department~~ corrections to
 31 arrange with the sheriff's office in the county of incarceration to have the individual
 32 delivered to a designated unit of ~~the department~~ corrections within a specific date not more
 33 than 15 days after the issuance of such probation order by the court.

34 (d) At any time during the individual's confinement in the unit, but at least five days prior
 35 to his or her expected date of release, ~~the department~~ corrections will certify to the trial
 36 court as to whether the individual has satisfactorily completed this condition of probation.

1 (e) Upon the receipt of a satisfactory report of performance in the program from, ~~the~~
 2 ~~department~~ corrections, the trial court shall release the individual from confinement in the
 3 'special alternative incarceration—probation boot camp' unit. However, the receipt of an
 4 unsatisfactory report will be grounds for revocation of the probated sentence as would any
 5 other violation of a condition or term of probation.

6 (f) The satisfactory report of performance in the program from ~~the department~~ corrections
 7 shall, in addition to the other requirements specified in this Code section, require
 8 participation of the individual confined in the unit in such adult education courses
 9 necessary to attain the equivalency of a grade five competency level as established by the
 10 State Board of Education for elementary schools. Those individuals who are mentally
 11 disabled as determined by initial testing are exempt from mandatory participation. After
 12 the individual is released from the unit, it shall be a special condition of probation that the
 13 individual participate in an education program in the community until grade five level
 14 competency is achieved or active probation supervision terminates. It shall be the duty of
 15 ~~the department~~ corrections to certify to the trial court that such individual has satisfactorily
 16 completed this condition of probation while on active probation supervision. The receipt
 17 of an unsatisfactory report may be grounds for revocation of the probated sentence as
 18 would any other violation of a condition or term of probation. Under certain circumstances,
 19 the probationer may be exempt from this requirement if it is determined by the
 20 probation/parole supervisor ~~officer~~ that community education resources are inaccessible
 21 to the probationer."

22 SECTION 21.

23 Said title is further amended by striking subsection (c) of Code Section 42-8-35.4, relating
 24 to the confinement in probation detention centers, and inserting in lieu thereof the following:
 25 "(c) During the period of confinement, ~~the department~~ corrections may transfer the
 26 probationer to other facilities in order to provide needed physical and mental health care
 27 or for other reasons essential to the care and supervision of the probationer or as necessary
 28 for the effective administration and management of its facilities."

29 SECTION 22.

30 Said title is further amended by striking subsection (c) of Code Section 42-8-35.5, relating
 31 to the confinement in probation diversion centers, and inserting in lieu thereof the following:
 32 "(c) Corrections ~~The department~~ may assess and collect room and board fees from
 33 diversion center program participants at a level set by ~~the department~~ corrections."

1 sentenced, each such case shall be reviewed and a written report submitted annually
 2 thereafter, or more often if required, until the termination, expiration, or other disposition
 3 of the case."

4 SECTION 25.

5 Said title is further amended by striking subsections (a) and (d) of Code Section 42-8-38,
 6 relating to the procedures in probation revocation matters, and inserting in lieu thereof the
 7 following:

8 "(a) Whenever, within the period of probation, a probation/parole supervisor believes that
 9 a probationer under his or her supervision has violated ~~his~~ the terms of probation in a
 10 material respect, ~~he~~ the probation/parole supervisor may arrest the probationer without
 11 warrant, wherever found, and return ~~him~~ the probationer to the court granting the probation
 12 or, if under supervision in a county or judicial circuit other than that of conviction, to a
 13 court of equivalent original criminal jurisdiction within the county wherein the probationer
 14 resides for purposes of supervision. Any officer authorized by law to issue warrants may
 15 issue a warrant for the arrest of the probationer upon the affidavit of one having knowledge
 16 of the alleged violation, returnable forthwith before the court in which revocation
 17 proceedings are being brought."

18 "(d) In cases where the probation is revoked in a county other than the county of original
 19 conviction, the clerk of court in the county revoking probation may record the order of
 20 revocation in the judge's minute docket, which recordation shall constitute sufficient
 21 permanent record of the proceedings in that court. The clerk shall send one copy of the
 22 order revoking probation to ~~the department~~ corrections to serve as a temporary
 23 commitment and shall send the original order revoking probation and all other papers
 24 pertaining thereto to the county of original conviction to be filed with the original records.
 25 The clerk of court of the county of original conviction shall then issue a formal
 26 commitment to ~~the department~~ corrections."

27 SECTION 26.

28 Said title is further amended by striking Code Section 42-8-42, relating to the provision of
 29 office space and clerical help by the Department of Corrections and counties, and inserting
 30 in lieu thereof the following:

31 "42-8-42.

32 Corrections ~~The department~~ may provide office space and clerical help wherever needed.
 33 The counties of this state shall cooperate in this respect and, wherever possible, shall
 34 furnish office space if needed."

1 which bond is permissible under the law in the courts of this state prior to conviction;
 2 provided, however, that no such program shall be established in a county without the
 3 unanimous approval of the superior court judges, the district attorney, and the sheriff of
 4 such county. The Board of Corrections shall promulgate rules and regulations governing
 5 any pretrial release and diversion programs established and operated by ~~the department~~
 6 corrections and shall grant authorization for the establishment of such programs based on
 7 the availability of sufficient staff and resources."

8 **SECTION 29.**

9 Said title is further amended by striking Code Section 42-8-82, relating to Department of
 10 Corrections contracts with counties for services and facilities, and inserting in lieu thereof
 11 the following:

12 "42-8-82.

13 ~~The Department~~ of Corrections may contract with the various counties of this state for the
 14 services and facilities necessary to operate pretrial release and diversion programs
 15 established under this article and both ~~the department~~ corrections and the counties are
 16 authorized to enter into such contracts as are appropriate to carry out the purpose of this
 17 article."

18 **SECTION 30.**

19 Said title is further amended by striking subsection (b) of Code Section 42-8-111, relating
 20 to court ordered installation of ignition interlock devices, and inserting in lieu thereof the
 21 following:

22 "(b) Any resident of this state who is ordered to use an ignition interlock device, as a
 23 condition of probation, shall complete the DUI Alcohol or Drug Use Risk Reduction
 24 Program and submit to the court or ~~probation~~ department a certificate of completion of the
 25 DUI Alcohol or Drug Use Risk Reduction Program and certification of installation of a
 26 certified ignition interlock device to the extent required by subsection (a) of this Code
 27 section."

28 **SECTION 31.**

29 Said title is further amended by striking subsection (a) of Code Section 42-8-114, relating
 30 to specifying providers for ignition interlock devices, and inserting in lieu thereof the
 31 following:

32 "(a) No judicial officer, probation officer, probation/parole supervisor, law enforcement
 33 officer, or other officer or employee of a court; person who owns, operates, or is employed
 34 by a private company which has contracted to provide private probation services for

1 misdemeanor cases; or professional bondsman or agent or employee thereof shall specify,
 2 directly or indirectly, a particular provider center which the person may or shall utilize
 3 when use of an ignition interlock device is required. This subsection shall not prohibit any
 4 judicial officer, probation officer, probation/parole supervisor, law enforcement officer, or
 5 other officer or employee of a court; owner, operator, or employee of a private company
 6 which has contracted to provide probation services for misdemeanor cases; or professional
 7 bondsman or agent or employee thereof from furnishing any person, upon request, the
 8 names of certified provider centers."

9 **SECTION 32.**

10 Said title is further amended by striking Code Section 42-8-116, relating to warning labels
 11 for ignition interlock devices, and inserting in lieu thereof the following:

12 "42-8-116.

13 The providers certified by the Department of Motor Vehicle Safety shall design and adopt
 14 pursuant to regulations of the ~~department~~ Department of Motor Vehicle Safety a warning
 15 label which shall be affixed to each ignition interlock device upon installation. The label
 16 shall contain a warning that any person tampering, circumventing, or otherwise misusing
 17 the device is guilty of a misdemeanor and may be subject to civil liability."

18 **SECTION 33.**

19 Said title is further amended by striking Code Section 42-9-3, relating to definitions related
 20 to the State Board of Pardons and Paroles, and inserting in lieu thereof the following:

21 "42-9-3.

22 As used in this chapter, the term:

23 (1) 'Board' ~~'board'~~ means the State Board of Pardons and Paroles.

24 (2) 'Department' means the Department of Probation/Parole Community Based
 25 Supervision.

26 (3) 'Split sentence' means any felony sentence that includes a term of imprisonment
 27 followed by a term of probation."

28 **SECTION 34.**

29 Said title is further amended by striking Code Section 42-9-20, relating to general powers
 30 and duties of the State Board of Pardons and Paroles, and inserting in lieu thereof the
 31 following:

32 "42-9-20.

33 (a) In all cases in which the chairman of the board or any other member designated by the
 34 board has suspended the execution of a death sentence to enable the full board to consider

1 and pass on same, it shall be mandatory that the board act within a period not exceeding
 2 90 days from the date of the suspension order. In the cases which the board has power to
 3 consider, the board shall be charged with the duty of determining which inmates serving
 4 sentences imposed by a court of this state may be released on pardon or parole and fixing
 5 the time and conditions thereof. The board shall also be charged with the duty of
 6 supervising all persons placed on parole, of determining violations thereof and of taking
 7 action with reference thereto, of making ~~such~~ investigations as may be necessary, and of
 8 aiding parolees or probationers in securing employment. It shall be the duty of the board
 9 personally to study the cases of those inmates whom the board has power to consider so as
 10 to determine their ultimate fitness for ~~such~~ relief as the board has power to grant. The board
 11 by an affirmative vote of a majority of its members shall have the power to commute a
 12 sentence of death to one of life imprisonment.

13 (b) With respect to inmates sentenced under split sentences entered on or after July 1, 2004,
 14 and all persons paroled or otherwise released by the board prior to completion of his or her
 15 sentence on or after July 1 2004, the board shall have no duty to supervise inmates who
 16 have been paroled or otherwise released prior to completion of their sentence of
 17 confinement. Supervision of inmates paroled, released, or released from split sentence
 18 confinement shall be through an increase in their period of probation, as provided in Code
 19 Section 17-10-1.3. Any reference elsewhere in this chapter to duties of the board with
 20 respect to supervision of parolees and other persons released from confinement shall not
 21 include inmates released from confinement on or after July 1, 2004."

22 SECTION 35.

23 Said title is further amended by striking Code Section 42-9-21, relating to supervision of
 24 persons placed on parole or other conditional release, and inserting in lieu thereof the
 25 following:

26 "42-9-21.

27 (a) The board shall have the function and responsibility of supervising all persons placed
 28 on parole or other conditional release by the board prior to July 1, 2004. On and after July
 29 1, 2004, the department shall have the function and responsibility of supervising all persons
 30 placed on parole or other conditional release by the board.

31 (b) The board is and the department are authorized to maintain and operate or to enter into
 32 memoranda of agreement or other written documents evidencing contracts with other state
 33 agencies, persons, or any other entities for transitional or intermediate or other services or
 34 for programs deemed by the board or the department to be necessary for parolees or others
 35 conditionally released from imprisonment by order of the board and to require as a

1 condition of relief that the offender pay directly to the provider a reasonable fee for said
2 services or programs.

3 (c) In all cases where restitution is applicable, the board or department shall collect during
4 the parole period those sums determined to be owed to the victim."

5 SECTION 36.

6 Said title is further amended by striking subsection (d) of Code Section 42-9-42, relating to
7 procedure for granting relief from sentence, conditions, and violations of parole, and
8 inserting in lieu thereof the following:

9 "(d)(1) Any person who is paroled shall be released on ~~such~~ the terms and conditions as
10 the board shall prescribe. The board shall diligently see that no peonage is allowed in the
11 guise of parole relationship ~~or supervision~~. The parolee shall remain in the legal custody
12 of the board until the expiration of the maximum term specified in ~~his~~ the parolee's
13 sentence or until ~~he~~ the parolee is pardoned by the board and shall be supervised during
14 this period of time by the department.

15 (2) The board may require the payment of a parole supervision fee of at least \$10.00 per
16 month as a condition of parole or other conditional release. The monthly amount shall be
17 set by rule of the board and shall be uniform state wide. The board may require or the
18 parolee or person under conditional release may request that up to 24 months of the
19 supervision fee be paid in advance of the time to be spent on parole or conditional
20 release. In such cases, any advance payments are nonreimbursable in the event of parole
21 or conditional release revocation or if parole or conditional release is otherwise
22 terminated prior to the expiration of the sentence being served on parole or conditional
23 release. ~~Such~~ The fees shall be collected by ~~the board to~~ a probation/parole supervisor
24 and shall be paid into the general fund of the state treasury."

25 SECTION 37.

26 Said title is further amended by striking Code Section 42-9-44, relating to terms and
27 conditions of parole and violation of parole, and inserting in lieu thereof the following:

28 "42-9-44.

29 (a) The board, upon placing a person on parole, shall specify in writing the terms and
30 conditions thereof. A certified copy of the conditions shall be given to the parolee.
31 Thereafter, a copy shall be sent to the clerk of the court in which the person was convicted.
32 The board shall adopt general rules concerning the terms and conditions of parole and
33 concerning what shall constitute a violation thereof and shall make special rules to govern
34 particular cases. The rules, both general and special, may include, among other things, a
35 requirement that the parolee shall not leave this state or any definite area in this state

1 without the consent of the board; that the parolee shall contribute to the support of his or
 2 her dependents to the best of the parolee's ability; that the parolee shall make reparation
 3 or restitution for his or her crime; that the parolee shall abandon evil associates and ways;
 4 and that the parolee shall carry out the instructions of his or her probation/parole
 5 supervisor, and, in general, so comport himself or herself as the ~~parolee's~~ supervisor shall
 6 determine. A violation of the terms of parole may render the parolee liable to arrest and a
 7 return to a penal institution to serve out the term for which the parolee was sentenced.

8 (b) Each parolee who does not have a high school diploma or a general educational
 9 development equivalency diploma (GED) shall be required as a condition of parole to
 10 obtain a high school diploma or general educational development equivalency diploma
 11 (GED) or to pursue a trade at a vocational or technical school. Any such parolee who
 12 demonstrates to the satisfaction of the board an existing ability or skill which does in fact
 13 actually furnish the parolee a reliable, regular, and sufficient income shall not be subject
 14 to this provision. Any parolee who is determined by the ~~Department of Corrections~~
 15 department or the board to be incapable of completing such requirements shall only be
 16 required to attempt to improve their basic educational skills. Failure of any parolee subject
 17 to this requirement to attend the necessary schools or courses or to make reasonable
 18 progress toward fulfillment of such requirement shall be grounds for revocation of parole.
 19 The board shall establish regulations regarding reasonable progress as required by this
 20 subsection. This subsection shall apply to paroles granted on or after July 1, 1995."

21 **SECTION 38.**

22 Said title is further amended by striking subsection (d) of Code Section 42-9-48, relating to
 23 arrest of parolee or conditional release violator, and inserting in lieu thereof the following:

24 "(d) Any probation/parole supervisor, when he or she has reasonable ground to believe that
 25 a parolee or conditional releasee has violated the terms or conditions of his or her parole
 26 or conditional release in a material respect, shall notify the board or some member thereof;
 27 and proceedings shall thereupon be had as provided in this Code section."

28 **SECTION 39.**

29 Said title is further amended by striking Code Section 42-9-57, relating to the effect of parole
 30 on probation and the board's cooperation with local agencies, and inserting in lieu thereof
 31 the following:

32 "42-9-57.

33 Nothing contained in this chapter shall be construed as repealing any power given to any
 34 court of this state to place offenders on probation or to supervise the same nor any power
 35 of any probation agency set up in any county of the state in conjunction with the courts.

1 The board shall be authorized to cooperate with any such agencies and specifically with the
 2 Department of Probation/Parole Community Based Supervision for purposes of supervising
 3 parolees and persons released pursuant to conditional release. The board , ~~except that it~~
 4 shall not assume or pay any financial obligations ~~thereof~~ of other agencies but shall share
 5 appropriately in the financial obligation of the Department of Probation/Parole Community
 6 Based Supervision for purposes of supervision needs of the board. ~~The board shall also be~~
 7 ~~authorized to cooperate with the courts for the probation of offenders in those counties in~~
 8 ~~which there is no existing probation agency, when a court so requests."~~

9 SECTION 40.

10 Said title is further amended by striking subsection (b) of Code Section 42-9-90, relating to
 11 application fee required for parolee transfer consideration, and inserting in lieu thereof the
 12 following:

13 "(b) ~~The Department of Corrections~~ Department of Probation/Parole Community Based
 14 Supervision and the State Board of Pardons and Paroles are authorized to require any
 15 nonindigent adult offender to pay a \$25.00 application fee when applying to transfer his
 16 or her supervision from Georgia to any other state or territory pursuant to the provisions
 17 of Articles 3 and 4 of this chapter."

18 SECTION 41.

19 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 20 amended by striking subsection (b) of Code Section 16-6-5.1, relating to sexual assaults
 21 against persons in custody, detained, in hospitals, or involved in psychotherapy, and inserting
 22 in lieu thereof the following:

23 "(b) A probation/parole supervisor or ~~parole~~ probation officer or other custodian or
 24 supervisor of another person referred to in this Code section commits sexual assault when
 25 he or she engages in sexual contact with another person who is a probationer or parolee
 26 under the supervision of said probation/parole supervisor or ~~parole~~ probation officer or who
 27 is in the custody of law or who is enrolled in a school or who is detained in or is a patient
 28 in a hospital or other institution and such actor has supervisory or disciplinary authority
 29 over such other person. A person convicted of sexual assault shall be punished by
 30 imprisonment for not less than one nor more than three years."

31 SECTION 42.

32 Said title is further amended by striking subsection (b) of Code Section 16-10-24, relating
 33 to obstructing or hindering law enforcement officers, and inserting in lieu thereof the
 34 following:

1 "(b) Whoever knowingly and willfully resists, obstructs, or opposes any law enforcement
 2 officer, prison guard, correctional officer, probation/parole supervisor, ~~parole supervisor~~,
 3 or conservation ranger in the lawful discharge of his or her official duties by offering or
 4 doing violence to the person of such officer or legally authorized person is guilty of a
 5 felony and shall, upon conviction thereof, be punished by imprisonment for not less than
 6 one nor more than five years."

7 **SECTION 43.**

8 Said title is further amended by striking subsection (a) of Code Section 16-10-33, relating
 9 to removal or attempted removal of a weapon from a public official and punishment therefor,
 10 and inserting in lieu thereof the following:

11 "(a) It shall be unlawful for any person knowingly to remove or attempt to remove a
 12 firearm, chemical spray, or baton from the possession of another person if:

13 (1) The other person is lawfully acting within the course and scope of employment; and

14 (2) The person has knowledge or reason to know that the other person is employed as:

15 (A) A peace officer as defined in paragraph (8) of Code Section 35-8-2;

16 (B) A probation/parole officer, or other employee with the power of arrest, by the
 17 Department of ~~Corrections~~ Probation/Parole Community Based Supervision;

18 (C) A probation/parole supervisor, or other employee with the power of arrest, by the
 19 ~~State Board of Pardons and Paroles~~ Department of Probation/Parole Community Based
 20 Supervision;

21 (D) A jail officer or guard by a county or municipality and has the responsibility of
 22 supervising inmates who are confined in a county or municipal jail or other detention
 23 facility; or

24 (E) A juvenile correctional officer by the Department of Juvenile Justice and has the
 25 primary responsibility for the supervision and control of youth confined in such
 26 department's programs and facilities."

27 **SECTION 44.**

28 Said title is further amended by striking subsection (d) of Code Section 16-11-37, relating
 29 to terroristic threats and acts and penalties therefor, and inserting in lieu thereof the
 30 following:

31 "(d) A person who commits or attempts to commit a terroristic threat or act with the intent
 32 to retaliate against any person for:

33 (1) Attending a judicial or administrative proceeding as a witness, attorney, judge, or
 34 party or producing any record, document, or other object in a judicial or official
 35 proceeding; or

1 (2) Providing to a law enforcement officer, adult probation/parole supervisor or juvenile
 2 probation officer, prosecuting attorney, or judge any information relating to the
 3 commission or possible commission of an offense under the laws of this state or of the
 4 United States or a violation of conditions of bail, pretrial release, probation, or parole
 5 shall be guilty of the offense of a terroristic threat or act and, upon conviction thereof, shall
 6 be punished, for a terroristic threat, by imprisonment for not less than five nor more than
 7 ten years or by a fine of not less than \$50,000.00, or both, and, for a terroristic act, by
 8 imprisonment for not less than five nor more than 20 years or by a fine of not less than
 9 \$100,000.00, or both."

10 SECTION 45.

11 Said title is further amended by striking paragraph (1) of Code Section 16-11-124, relating
 12 to exemptions from application of the "Georgia Firearms and Weapons Act," and inserting
 13 in lieu thereof the following:

14 "(1) A peace officer of any duly authorized police agency of this state or of any political
 15 subdivision thereof, or a law enforcement officer of any department or agency of the
 16 United States who is regularly employed and paid by the United States, this state, or any
 17 such political subdivision, or an employee of the Department of Corrections of this state
 18 who is authorized in writing by the commissioner of corrections to transfer or possess
 19 such firearms while in the official performance of his or her duties, or an employee of the
 20 Department of Probation/Parole Community Based Supervision of this state who is
 21 authorized in writing by the director of the Department of Probation/Parole Community
 22 Based Supervision to transfer or possess such firearms while in the official performance
 23 of his or her duties;"

24 SECTION 46.

25 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
 26 amended by striking subsection (a) of Code Section 17-10-1, relating to fixing and
 27 modification of sentences, and inserting in lieu thereof the following:

28 "(a)(1) Except in cases in which life imprisonment, life without parole, or the death
 29 penalty may be imposed, upon a verdict or plea of guilty in any case involving a
 30 misdemeanor or felony, and after a presentence hearing, the judge fixing the sentence
 31 shall prescribe a determinate sentence for a specific number of months or years which
 32 shall be in conformity with any mandatory minimum sentences required by law or shall
 33 be within the minimum and maximum prescribed by law as the punishment for the crime.
 34 The judge imposing the sentence is granted power and authority to suspend or probate all
 35 or any part of the entire sentence under such rules and regulations as the judge deems

1 proper, including the authority to revoke the suspension or probation when the defendant
2 has violated any of the rules and regulations prescribed by the court, even before the
3 probationary period has begun, subject to the conditions set out in this subsection;
4 provided, however, that such action shall be subject to the provisions of Code Section
5 17-10-6.1.

6 (2) Probation supervision shall terminate in all cases no later than two years from the
7 commencement of probation supervision unless specially extended or reinstated by the
8 sentencing court upon notice and hearing and for good cause shown; provided, however,
9 in those cases involving the collection of fines, restitution, or other funds, the period of
10 supervision shall remain in effect for so long as any ~~such~~ financial obligation is
11 outstanding, or until termination of the sentence, whichever first occurs; and provided,
12 further, that where a period of post-incarceration probation is increased as a result of
13 parole or other release as provided in Code Section 17-10-1.3, the otherwise applicable
14 two-year maximum shall be increased by the amount of time for which the period of
15 post-incarceration probation is increased. Probation supervision shall not be required for
16 defendants sentenced to probation while the defendant is in the legal custody of the
17 Department of Corrections ~~or the State Board of Pardons and Paroles.~~

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

27 (B) A parolee or probationer charged with a misdemeanor involving physical injury
28 or an attempt to commit physical injury or terroristic threats or with a new felony shall
29 not be entitled to bond pending a hearing on the revocation of his or her parole or
30 probation, except by order of a judge of the superior, state, or magistrate court wherein
31 the alleged new offense occurred after a hearing and upon determination of the
32 superior, state, or magistrate court that the parolee or probationer does not constitute
33 a threat to the community; provided, however, that this subparagraph does not authorize
34 state or magistrate court judges to grant bail for a person charged with any offense
35 listed in subsection (a) of Code Section 17-6-1.

36 (4) In cases of imprisonment followed by probation, the sentence shall specifically
37 provide that the period of probation shall not begin until the defendant has completed

1 service of the confinement portion of the sentence or been released from confinement by
 2 the State Board of Pardons and Paroles as provided in Code Section 17-10-1.3. No With
 3 respect to a sentence entered prior to July 1, 2004, no revocation of any part of a probated
 4 sentence shall be effective while a defendant is in the legal custody of the State Board of
 5 Pardons and Paroles.

6 (5)(A) Where a defendant has been sentenced to probation, the court shall retain
 7 jurisdiction throughout the period of the probated sentence as provided for in subsection
 8 (g) of Code Section 42-8-34. Without limiting the generality of the foregoing, the court
 9 may shorten the period of probation on motion of the defendant or on its own motion,
 10 if the court determines that probation is no longer necessary or appropriate for the ends
 11 of justice, the protection of society, and the rehabilitation of the defendant. Prior to
 12 entering any order for shortening a period of probation, the court shall afford notice to
 13 the victim or victims of all sex related offenses or violent offenses resulting in serious
 14 bodily injury or death, and, upon request of the victim or victims so notified, shall
 15 afford notice and an opportunity for hearing to the defendant and the prosecuting
 16 attorney.

17 (B) The Department of ~~Corrections~~ Probation/Parole Community Based Supervision
 18 shall establish a form document which shall include the elements set forth in this Code
 19 section concerning notification of victims and shall make copies of such form available
 20 to prosecuting attorneys in the state. When requested by the victim, the form document
 21 shall be provided to the victim by the prosecuting attorney. The form shall include the
 22 address of the probation/parole community based supervision office having jurisdiction
 23 over the case and contain a statement that the victim must maintain a copy of his or her
 24 address with the probation/parole community based supervision office and must notify
 25 the office of any change of address in order to maintain eligibility for notification by
 26 the Department of ~~Corrections~~ Probation/Parole Community Based Supervision as
 27 required in this Code section.

28 (6)(A) Except as otherwise authorized by law, no court shall modify, suspend, probate,
 29 or alter a previously imposed sentence so as to reduce or eliminate a period of
 30 incarceration or probation and impose a financial payment which:

- 31 (i) Exceeds the statutorily specified maximum fine, plus all penalties, fees,
 32 surcharges, and restitution permitted or authorized by law; or
- 33 (ii) Is to be made to an entity which is not authorized by law to receive fines,
 34 penalties, fees, surcharges, or restitution.

35 (B) The prohibitions contained in this paragraph shall apply regardless of whether a
 36 defendant consents to the modification, suspension, probation, or alteration of such
 37 defendant's sentence and the imposition of such payment.

1 (C) Nothing in this paragraph shall prohibit or prevent a court from requiring, as a
2 condition of suspension, modification, or probation of a sentence in a criminal case
3 involving child abandonment, that the defendant pay all or a portion of child support
4 which is owed to the custodial parent of a child which is the subject of such case."

5 **SECTION 47.**

6 Said title is further amended by adding immediately after Code Section 17-10-1.2, relating
7 to oral victim impact statements, a new Code Section 17-10-1.3 to read as follows:

8 "17-10-1.3.

9 (a) As used in this Code section, the term 'split sentence' means any felony sentence that
10 includes a term of imprisonment followed by a term of probation.

11 (b) In any case where a judge on or after July 1, 2004, sentences a defendant to a split
12 sentence, post-incarceration supervision of the defendant shall be conducted exclusively
13 by the Department of Probation/Parole Community Based Supervision and not by the State
14 Board of Pardons and Paroles, regardless of whether the defendant has served the full
15 period of incarceration ordered in the sentence or has been released prior to the full period
16 of incarceration by parole, conditional release, or other action of the State Board of Pardons
17 and Paroles.

18 (c) Any split sentence order entered on or after July 1, 2004, shall provide that the
19 post-incarceration period of probation ordered in the sentence shall be increased by an
20 amount of time equal to any amount of time by which the period of incarceration is
21 decreased by the State Board of Pardons and Paroles. Such increased portion of the period
22 of probation shall run concurrently with the period of time by which the period of
23 incarceration was decreased and shall commence upon the defendant's release from
24 incarceration. Any split sentence order entered on or after July 1, 2004, which by its terms
25 fails to so provide for the increased period of probation shall be deemed to so provide by
26 operation of law.

27 (d) In any case where a judge on or after July 1, 2004, sentences a defendant for a felony
28 offense to straight probation or to an alternative probation confinement facility, supervision
29 of the defendant shall be conducted exclusively by the Department of Probation/Parole
30 Community Based Supervision and not by the state-wide probation system.

31 (e) Nothing in this Code section shall apply to or affect any case in which a pardon is
32 granted by the State Board of Pardons and Paroles."

SECTION 48.

Said title is further amended by striking subsection (a) of Code Section 17-10-6, relating to sentence review for sentences of imprisonment exceeding 12 years, and inserting in lieu thereof the following:

"(a) In any case, except cases in which the death penalty is imposed or cases involving a serious violent felony as defined in subsection (a) of Code Section 17-10-6.1, in which a sentence of 12 or more years, or several consecutive sentences which total 12 or more years, has been fixed and imposed by a judge, without a jury, the defendant shall have the right to have the sentence or sentences reviewed by a panel of three superior court judges to determine whether the sentence or sentences so imposed are excessively harsh. Consideration shall be given in the review to the nature of the crime for which the defendant has been convicted and to the defendant's prior criminal record. Any defendant seeking a review of such sentence or sentences shall make application therefor within 30 days of the date on which the sentence was imposed by a judge of the superior court or after the remittitur from the Court of Appeals or Supreme Court affirming the conviction is made the judgment of the sentencing court, whichever occurs last. The application shall be filed with the clerk of the superior court in which the sentence was imposed. Upon the filing of an application the clerk shall transmit the same to the three-judge panel created under this Code section within ten days of the date on which the application was filed. For such service, the clerk shall receive the fees prescribed in Code Section 15-6-77 from the funds of the county, except where the clerk is on a salary. It shall be the duty of the judge imposing the sentence and any probation/parole supervisor ~~officer~~ to transmit, within ten days of the filing of an application for review of a sentence, a copy of any presentence or postsentence report prepared by the probation/parole supervisor ~~officer~~, including the record of the defendant, to the three-judge panel."

SECTION 49.

Said title is further amended by striking subsections (c) and (d) of Code Section 17-10-9.1, relating to voluntary surrender to county jail or correctional institution and release of defendant, and inserting in lieu thereof the following:

"(c) When a defendant submits a request to the sentencing judge to be allowed to surrender voluntarily to a county jail or a correctional facility, the judge may consider the request and if, taking into the consideration the crime for which the defendant is being sentenced, the history of the defendant, and any other factors which may aid in the decision, the judge determines that the granting of the request will pose no threat to society, the defendant shall be remanded to the supervision of a probation/parole supervisor ~~officer~~ by the judge and ordered to surrender voluntarily to a county jail designated by the court or to a correctional

1 institution as thereafter designated by the Department of Corrections. The surrender date
 2 shall be a date thereafter specified as provided in subsection (d) of this Code section. The
 3 sentence of any defendant who is released pursuant to this Code section shall not begin to
 4 run until such person surrenders to the facility designated by the court or by the
 5 department, provided that such person will receive credit toward his or her sentence for
 6 time spent in confinement awaiting trial as provided in Code Section 17-10-11.

7 (d) In the event the defendant is ordered to surrender voluntarily to a county jail, the court
 8 shall designate the date on which the defendant shall surrender, which date shall not be
 9 more than 120 days after the date of conviction. When the sentencing judge issues an order
 10 requiring a defendant to surrender voluntarily to a correctional institution, the Department
 11 of Corrections shall authorize the commitment and designate the correctional institution
 12 to which the defendant shall report and the date on which the defendant is to report, which
 13 date shall not be more than 120 days after the date of conviction. Upon such designation,
 14 the department shall notify the ~~supervising~~ defendant's probation/parole supervisor ~~officer~~
 15 who shall notify the defendant accordingly. Subsistence and transportation expenses en
 16 route to the correctional institution shall be borne by the defendant."

17 SECTION 50.

18 Said title is further amended by striking paragraph (5) of Code Section 17-17-3, relating to
 19 definitions in the Crime Victims' Bill of Rights, and inserting in lieu thereof the following:

20 "(5) 'Custodial authority' means a warden, sheriff, jailer, deputy sheriff, police officer,
 21 correctional officer, officer or employee of the Department of Corrections, Department
 22 of Probation/Parole Community Based Supervision, or the Department of Juvenile
 23 Justice, or any other law enforcement officer having actual custody of the accused."

24 SECTION 51.

25 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
 26 amended by striking subsection (a) of Code Section 19-7-52, and inserting in lieu thereof the
 27 following:

28 "(a) The court may order that support payments be made to the mother or other interested
 29 party, the child support receiver, the prosecuting attorney, the probation officer, the
 30 probation/parole supervisor, or the clerk of court, provided that, in those cases where the
 31 action has been brought by the Department of Human Resources on behalf of a child, the
 32 support payment shall be made to the Department of Human Resources for distribution or
 33 to the child support receiver if the Department of Human Resources so requests."

SECTION 52.

Said title is further amended by striking Code Section 19-11-21, relating to payment of support to the Department of Human Resources, and inserting in lieu thereof the following:

"19-11-21.

Payment of support pursuant to an administrative determination or a voluntary agreement shall be made to the department. In non-TANF cases, where the department deems it appropriate, it may authorize distribution of the actual payment by other individuals, agencies, or entities and utilize certification schedules reflecting such payments or distributions which the department requires, in accordance with the federal Social Security Act, as amended. Child support which is ordered by a court pursuant to a divorce decree or in any other proceeding in which the responsible parent is required to pay support for his or her child or children, whether the proceeding is civil or criminal, shall be paid by the responsible parent, the clerk of court, the probation officer, the probation/parole supervisor, the child support receiver, or a similar official who is collecting support to the department upon the department's certification that the child is a recipient of public assistance or upon the department's certification that an application has been filed with the department for enforcement of support in accordance with the provisions of the federal Social Security Act."

SECTION 53.

Said title is further amended by striking paragraph (4) of Code Section 19-13-51, relating to definitions in the "Family Violence and Stalking Protective Order Registry Act," and inserting in lieu thereof the following:

"(4) 'Law enforcement officer' means any agent or officer of this state, or a political subdivision or municipality thereof, who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws and whose duties include the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime. Such term also includes the following: state or local officer, sheriff, deputy sheriff, dispatcher, 911 operator, police officer, prosecuting attorney, member of the State Board of Pardons and Paroles, and a hearing officer and a probation/parole officer of the State Board of Pardons and Paroles, and a probation officer of the Department of Corrections Probation/Parole Community Based Supervision."

1 individual who owns, operates, instructs at, or is employed by a driver improvement clinic
 2 on June 1, 2004, and who in all respects is and remains qualified to own, operate, instruct
 3 at, or be employed by a driver improvement clinic is expressly authorized to continue on
 4 and after June 1, 2004, to engage in such activities. No person who owns, operates, or is
 5 employed by a private company which has contracted to provide probation services for
 6 misdemeanor cases shall be authorized to own, operate, be an instructor at, or be employed
 7 by a driver improvement clinic or a DUI Alcohol or Drug Use Risk Reduction Program."

8 **SECTION 56.**

9 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
 10 is amended by striking subsection (e) of Code Section 45-7-9, relating to compensation for
 11 line-of-duty injuries to full-time state employees and exceptions, and inserting in lieu thereof
 12 the following:

13 "(e) Any employee of the Department of Corrections, employee of the State Board of
 14 Pardons and Paroles, employee of the Department of Probation/Parole Community Based
 15 Supervision, employee of the Department of Natural Resources, employee of the
 16 Department of Revenue, or law enforcement officer who qualifies for disability allowances
 17 pursuant to Code Section 47-2-221 shall not be entitled to any benefits provided in this
 18 Code section."

19 **SECTION 57.**

20 Said title is further amended by striking paragraph (8) of Code Section 45-9-81, relating to
 21 definitions concerning the Georgia State Indemnification Fund, and inserting in lieu thereof
 22 the following:

23 "(8) 'Prison guard' means any person employed by the state or any political subdivision
 24 thereof whose principal duties relate to the supervision and incarceration of persons
 25 accused or convicted of the violation of the criminal laws of this state or any political
 26 subdivision thereof. Such term shall also mean any probation/parole supervisor or parole
 27 officer who is required to be certified under Chapter 8 of Title 35, the 'Georgia Peace
 28 Officer Standards and Training Act,' and whose principal duties directly relate to the
 29 supervision of adult probationers or adult parolees. Such term also means any person
 30 employed by the state or any political subdivision thereof whose principal duties include
 31 the supervision of youth who are charged with or adjudicated for an act which if
 32 committed by adults would be considered a crime."

1 **SECTION 58.**

2 This Act shall become effective July 1, 2004, and shall apply with respect to sentences
3 entered on or after that date.

4 **SECTION 59.**

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