

House Bill 1163

By: Representatives Powell of the 23rd, Parham of the 94th, DeLoach of the 127th, O`Neal of the 117th, 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 division of probation/parole community based supervision; to provide for
3 the responsibilities of the division with respect to supervision of probationers and parolees;
4 to transfer responsibility of certain functions of probation and parole supervision to the
5 division; to provide for the selection, service, and powers and duties of the director and
6 employees of the division; to provide for rules and regulations and forms; to provide for
7 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 (b) The director shall receive an annual salary to be set by the Governor which shall be his
2 or her total compensation for services as director. The director shall be reimbursed for all
3 actual and necessary expenses incurred by him or her in carrying out his or her official
4 duties.

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

11 42-14-4.

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

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

21 (c) All employees of the division shall be compensated upon a fixed salary basis, and no
22 person shall be compensated for services to the division on a commission or contingent fee
23 basis.

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

28 42-14-5.

29 (a) The director shall have the power to make and publish reasonable rules and regulations
30 not inconsistent with this title or other laws or with the Constitution of this state or of the
31 United States for the administration of this chapter or any law which it is his or her duty
32 to administer.

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

1 (c) The following rules and regulations shall remain of full force and effect as rules and
 2 regulations of the division until amended, repealed, or superseded by rules or regulations
 3 adopted by the director of the division:

4 (1) All rules and regulations previously adopted by the Advisory Council for Probation
 5 which relate to functions transferred under this chapter from the state-wide probation
 6 system to the division;

7 (2) All rules and regulations previously adopted by corrections which relate to functions
 8 transferred under this chapter from corrections to the division; and

9 (3) All rules and regulations previously adopted by the board which relate to functions
 10 transferred under this chapter from the board to the division.

11 42-14-6.

12 (a) Appropriations to corrections and the board for functions transferred to the division
 13 pursuant to this chapter may be transferred to the division as provided for in Code Section
 14 45-12-90. Personnel, equipment, and facilities previously employed by corrections and the
 15 board for transferred functions shall likewise be transferred to the division. Any
 16 disagreement as to any of the transfers shall be resolved by the Governor.

17 (b) The enactment of this chapter and the Act by which it is enacted shall not affect or
 18 abate the status of a probation revocation or parole revocation which occurred prior to July
 19 1, 2004."

20 SECTION 2.

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

23 "42-1-10.

24 (a) Any probation/parole supervisor, probation officer, ~~parole officer~~, or other official or
 25 employee of the Department of Corrections or the division of probation/parole community
 26 based supervision who supervises any person covered under the provisions of paragraphs

27 (1) through (7) of this subsection shall be exempt from the provisions of Chapter 22 of
 28 Title 31 for the limited purposes of administering a preliminary urine screen drug test to
 29 any person who is:

30 (1) Incarcerated;

31 (2) Released as a condition of probation for a felony or misdemeanor;

32 (3) Released as a condition of conditional release;

33 (4) Released as a condition of parole;

34 (5) Released as a condition of provisional release;

35 (6) Released as a condition of pretrial release; or

1 (7) Released as a condition of control release.

2 (b) The Department of Corrections, the division of probation/parole community based
 3 supervision, and the State Board of Pardons and Paroles shall develop a procedure for the
 4 performance of preliminary urine screen drug tests in accordance with the manufacturer's
 5 standards for certification. Probation officers, probation/parole officers supervisors, or
 6 other officials or employees of the Department of Corrections or the division of
 7 probation/parole community based supervision who are supervisors of any person covered
 8 under paragraphs (1) through (7) of subsection (a) of this Code section shall be authorized
 9 to perform preliminary urine screen drug tests in accordance with such procedure. Such
 10 procedure shall include instructions as to a confirmatory test by a licensed clinical
 11 laboratory where necessary."

12 SECTION 3.

13 Said title is further amended by striking Code Section 42-2-4, relating to the creation of the
 14 Department of Corrections, and inserting in lieu thereof the following:

15 "42-2-4.

16 There is created the Department of Corrections. The department shall have a division of
 17 probation/parole community based supervision within it."

18 SECTION 4.

19 Said title is further amended by striking Code Section 42-8-2, relating to the Advisory
 20 Council for Probation's duties and responsibilities, and inserting in lieu thereof the
 21 following:

22 "42-8-2.

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

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

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

26 (3) 'Division' means the division of probation/parole community based supervision.

27 (b) The Advisory Council for Probation shall meet, consult, and advise with the Board of
 28 Corrections board, the division, and the Department of Corrections corrections on questions
 29 and matters of mutual concern and interest relative to policy, personnel, and budget which
 30 pertain to probationary activities, powers, duties, and responsibilities of the board, and the
 31 department division, and corrections. The advisory council shall institute such studies and
 32 surveys and shall make such recommendations to the board, corrections, and department
 33 the division 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

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

10 SECTION 5.

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

13 "42-8-21.

14 As used in this article, the term:

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

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

17 (3) 'Corrections' means the Department of Corrections.

18 (3)(4) 'Division' '~~Department~~' means the ~~Department of Corrections~~ division of
 19 probation/parole community based supervision.

20 (5) 'Split sentence' means any felony sentence that includes a term of imprisonment
 21 followed by a term of probation."

22 SECTION 6.

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

25 "42-8-22.

26 There is created a state-wide probation system for felony offenders to be administered by
 27 the ~~Department of Corrections~~ division of probation/parole community based supervision.

28 The probation system shall not be administered as part of the duties and activities of the
 29 State Board of Pardons and Paroles; but with respect to a split sentence imposed on or after
 30 July 1, 2004, the division shall have jurisdiction over any increased period of probation
 31 resulting from a release of the defendant by the State Board of Pardons and Paroles as
 32 provided for in Code Section 17-10-1.3. Separate files and records shall be kept with
 33 relation to the system."

1 attached to the bond; and in such case each individual shall be fully bonded and bound as
 2 principal, together with the surety, by virtue of his or her holding the position or
 3 performing the duties of probation/parole supervisor in the circuit or circuits, and his or her
 4 individual signature shall not be necessary for such bond to be valid in accordance with all
 5 the laws of this state. The bond or bonds shall be made payable to ~~the department~~
 6 corrections."

7 **SECTION 11.**

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

10 "42-8-27.

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

15 **SECTION 12.**

16 Said title is further amended by striking Code Section 42-8-28, relating to the assignment of
 17 probation supervisors among the judicial circuits, and inserting in lieu thereof the following:

18 "42-8-28.

19 Probation/parole supervisors shall be assigned among the respective judicial circuits based
 20 generally on the relative number of persons on probation and parole in each circuit."

21 **SECTION 13.**

22 Said title is further amended by striking Code Section 42-8-29, relating to presentence
 23 investigations, supervision of probationers, and record keeping, and inserting in lieu thereof
 24 the following:

25 "42-8-29.

26 (a) It shall be the duty of the probation/parole supervisor to investigate all cases referred
 27 to him or her by the court and to make his findings and report thereon in writing to the
 28 court with his a recommendation. The superior court may require, before imposition of
 29 sentence, a presentence investigation and written report in each felony case in which the
 30 defendant has entered a plea of guilty or nolo contendere or has been convicted.

31 (b) The probation/parole supervisor shall cause to be delivered to each person placed on
 32 probation under his or her supervision a certified copy of the terms of probation and any
 33 change or modification thereof and shall cause the person to be instructed regarding the
 34 same. ~~He~~ The probation/parole supervisor shall keep informed concerning the conduct,

1 habits, associates, employment, recreation, and whereabouts of the probationer by visits,
 2 by requiring reports, or in other ways. ~~He~~ The probation/parole supervisor shall make ~~such~~
 3 reports in writing or otherwise as the court may require. ~~He~~ The probation/parole
 4 supervisor shall use all practicable and proper methods to aid and encourage persons on
 5 probation and to bring about improvements in their conduct and condition.

6 (c) The probation/parole supervisor ~~He~~ shall keep records on each probationer and parolee
 7 referred to ~~him~~ the probation/parole supervisor."

8 SECTION 14.

9 Said title is further amended by striking Code Section 42-8-29.1, relating to disposition of
 10 a probation supervisor's documents upon committing a defendant to an institution, and
 11 inserting in lieu thereof the following:

12 "42-8-29.1.

13 (a) When a convicted person is committed to an institution under the jurisdiction of ~~the~~
 14 ~~department~~ corrections, any presentence or post-sentence investigation or psychological
 15 evaluation compiled by a probation/parole supervisor or other probation official shall be
 16 forwarded to ~~any~~ the division or any office designated by the commissioner.
 17 Accompanying this document or evaluation will be the case history form and the criminal
 18 history sheets from the Federal Bureau of Investigation or the Georgia Crime Information
 19 Center, if available, unless any ~~such~~ of this information has previously been sent to ~~the~~
 20 ~~department~~ corrections pursuant to Code Section 42-5-50. A copy of these same documents
 21 shall be made available for the State Board of Pardons and Paroles. A copy of one or more
 22 of these documents, based on need, may be forwarded to another institution to which the
 23 defendant may be committed.

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

28 SECTION 15.

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

31 "42-8-30.

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

1 probation/parole supervisors. The bond shall bind the employee and ~~his~~ the surety in the
 2 performance of ~~his~~ the employee's duties.

3 (b) Any overpayment of fines, restitutions, or other moneys owed as a condition of
 4 probation shall not be refunded to the probationer if the amount of ~~such~~ the overpayment
 5 is less than \$5.00."

6 SECTION 19.

7 Said title is further amended by striking subsections (b), (c), and (d) of Code Section 42-8-34,
 8 relating to probation hearings, and inserting in lieu thereof the following:

9 "(b) Prior to the hearing, the court may refer the case to the probation/parole supervisor of
 10 the circuit in which the court is located for investigation and recommendation. The court,
 11 upon such reference, shall direct the supervisor to make an investigation and to report to
 12 the court, in writing at a specified time, upon the circumstances of the offense and the
 13 criminal record, social history, and present condition of the defendant, together with the
 14 supervisor's recommendation; and it shall be the duty of the supervisor to carry out the
 15 directive of the court.

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

26 (d)(1) In every case that a court of this state or any other state sentences a defendant to
 27 probation or any pretrial release or diversion program under the supervision of the
 28 ~~department~~ division, in addition to any fine or order of restitution imposed by the court,
 29 there shall be imposed a probation fee as a condition of probation, release, or diversion
 30 in the amount equivalent to \$23.00 per each month under supervision, and in addition,
 31 a one-time fee of \$50.00 where such defendant was convicted of any felony. The
 32 probation fee may be waived or amended after administrative process by the ~~department~~
 33 division and approval of the court, or upon determination by the court, as to the undue
 34 hardship, inability to pay, or any other extenuating factors which prohibit collection of
 35 the fee; provided, however, that the imposition of sanctions for failure to pay fees shall
 36 be within the discretion of the court through judicial process or hearings. Probation fees

1 shall be waived on probationers incarcerated or detained in a ~~departmental~~ Department
 2 of Corrections or other confinement facility which prohibits employment for wages. All
 3 probation fees collected by the ~~department~~ division shall be paid into the general fund of
 4 the state treasury, except as provided in subsection (f) of Code Section 17-15-13, relating
 5 to sums to be paid into the Georgia Crime Victims Emergency Fund.

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

15 **SECTION 20.**

16 Said title is further amended by striking subsection (a) of Code Section 42-8-34.2, relating
 17 to a defendant's delinquent payment of fines, costs, restitution, or reparation and costs of
 18 garnishment, and inserting in lieu thereof the following:

19 "(a) In the event that a defendant is delinquent in the payment of fines, costs, or restitution
 20 or reparation, as was ordered by the court as a condition of probation, the defendant's
 21 probation/parole supervisor ~~officer~~ is authorized, but not required, to execute a sworn
 22 affidavit wherein the amount of arrearage is set out. In addition, the affidavit shall contain
 23 a succinct statement as to what efforts the ~~department~~ division has made in trying to collect
 24 the delinquent amount. The affidavit shall then be submitted to the sentencing court for
 25 approval. Upon signature and approval of the court, said arrearage shall then be collectable
 26 through issuance of a writ of fieri facias by the clerk of the sentencing court; and the
 27 ~~department~~ division may enforce such collection through any judicial or other process or
 28 procedure which may be used by the holder of a writ of execution arising from a civil
 29 action."

30 **SECTION 21.**

31 Said title is further amended by striking Code Section 42-8-35, relating to terms and
 32 conditions of probation, and inserting in lieu thereof the following:

33 "42-8-35.

34 The court shall determine the terms and conditions of probation and may provide that the
 35 probationer shall:

- 1 (1) Avoid injurious and vicious habits;
- 2 (2) Avoid persons or places of disreputable or harmful character;
- 3 (3) Report to the probation/parole supervisor as directed;
- 4 (4) Permit the supervisor to visit him or her at his or her home or elsewhere;
- 5 (5) Work faithfully at suitable employment insofar as may be possible;
- 6 (6) Remain within a specified location;
- 7 (7) Make reparation or restitution to any aggrieved person for the damage or loss caused
- 8 by his or her offense, in an amount to be determined by the court. Unless otherwise
- 9 provided by law, no reparation or restitution to any aggrieved person for the damage or
- 10 loss caused by his or her offense shall be made if the amount is in dispute unless the same
- 11 has been adjudicated;
- 12 (8) Make reparation or restitution as reimbursement to a municipality or county for the
- 13 payment for medical care furnished the person while incarcerated pursuant to the
- 14 provisions of Article 3 of Chapter 4 of this title. No reparation or restitution to a local
- 15 governmental unit for the provision of medical care shall be made if the amount is in
- 16 dispute unless the same has been adjudicated;
- 17 (9) Repay the costs incurred by any municipality or county for wrongful actions by an
- 18 inmate covered under the provisions of paragraph (1) of subsection (a) of Code Section
- 19 42-4-71;
- 20 (10) Support his or her legal dependents to the best of his or her ability;
- 21 (11) Violate no local, state, or federal laws and be of general good behavior; and
- 22 (12) If permitted to move or travel to another state, agree to waive extradition from any
- 23 jurisdiction where he or she may be found and not contest any effort by any jurisdiction
- 24 to return him or her to this state."

25 **SECTION 22.**

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

28 "42-8-35.1.

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

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

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

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

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

22 (f) The satisfactory report of performance in the program from ~~the department~~ corrections
23 shall, in addition to the other requirements specified in this Code section, require
24 participation of the individual confined in the unit in such adult education courses
25 necessary to attain the equivalency of a grade five competency level as established by the
26 State Board of Education for elementary schools. Those individuals who are mentally
27 disabled as determined by initial testing are exempt from mandatory participation. After
28 the individual is released from the unit, it shall be a special condition of probation that the
29 individual participate in an education program in the community until grade five level
30 competency is achieved or active probation supervision terminates. It shall be the duty of
31 ~~the department~~ corrections to certify to the trial court that such individual has satisfactorily
32 completed this condition of probation while on active probation supervision. The receipt
33 of an unsatisfactory report may be grounds for revocation of the probated sentence as
34 would any other violation of a condition or term of probation. Under certain circumstances,
35 the probationer may be exempt from this requirement if it is determined by the
36 probation/parole supervisor officer that community education resources are inaccessible
37 to the probationer."

1 absconded and cannot be found, the running of the probated sentence shall be suspended
 2 effective on the date such affidavit is submitted to the court and continuing until the
 3 probationer shall personally report to the probation/parole supervisor, is taken into
 4 custody in this state, or is otherwise available to the court."

5 SECTION 26.

6 Said title is further amended by striking subsection (b) of Code Section 42-8-37, relating to
 7 terminating and reviewing probation cases, and inserting in lieu thereof the following:

8 "(b) Upon the request of the chief judge of the court from which ~~said~~ a person was
 9 sentenced, the case of each person receiving a probated sentence of more than two years
 10 shall be reviewed by the probation/parole supervisor responsible for that case after service
 11 of two years on probation, and a written report of the probationer's progress shall be
 12 submitted to the sentencing court along with the supervisor's recommendation as to early
 13 termination. Upon the request of the chief judge of the court from which said person was
 14 sentenced, each such case shall be reviewed and a written report submitted annually
 15 thereafter, or more often if required, until the termination, expiration, or other disposition
 16 of the case."

17 SECTION 27.

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

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

31 "(d) In cases where the probation is revoked in a county other than the county of original
 32 conviction, the clerk of court in the county revoking probation may record the order of
 33 revocation in the judge's minute docket, which recordation shall constitute sufficient
 34 permanent record of the proceedings in that court. The clerk shall send one copy of the
 35 order revoking probation to ~~the department~~ corrections to serve as a temporary

1 commitment and shall send the original order revoking probation and all other papers
 2 pertaining thereto to the county of original conviction to be filed with the original records.
 3 The clerk of court of the county of original conviction shall then issue a formal
 4 commitment to ~~the department~~ corrections."

5 **SECTION 28.**

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

9 "42-8-42.

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

13 **SECTION 29.**

14 Said title is further amended by striking subsections (b) and (c) of Code Section 42-8-72,
 15 relating to community service as a condition of probation, and inserting in lieu thereof the
 16 following:

17 "(b) The judge may confer with the prosecutor, defense attorney, probation/parole
 18 supervisor, community service officer, or other interested persons to determine if the
 19 community service program is appropriate for an offender. If community service is ordered
 20 as a condition of probation, the court shall order:

21 (1) Not less than 20 hours nor more than 250 hours in cases involving traffic or
 22 ordinance violations or misdemeanors, said service to be completed within one year; or

23 (2) Not less than 20 hours nor more than 500 hours in felony cases, said service to be
 24 completed within three years.

25 (c)(1) Any agency may recommend to the court that certain disabled persons are in need
 26 of a live-in attendant. The judge shall confer with the prosecutor, defense attorney,
 27 probation/parole supervisor, community service officer, or other interested persons to
 28 determine if a community service program involving a disabled person is appropriate for
 29 an offender. If community service as a live-in attendant for a disabled person is deemed
 30 appropriate and if both the offender and the disabled person consent to such service, the
 31 court may order such live-in community service as a condition of probation but for no
 32 longer than two years.

33 (2) The agency shall be responsible for coordinating the provisions of the cost of food
 34 or other necessities for the offender which the disabled person is not able to provide. The

1 agency, with the approval of the court, shall determine a schedule which will provide the
2 offender with certain free hours each week.

3 (3) Such live-in arrangement shall be terminated by the court upon the request of the
4 offender or the disabled person. Upon termination of such an arrangement, the court shall
5 determine if the offender has met the conditions of probation.

6 (4) The appropriate agency shall make personal contact with the disabled person on a
7 frequent basis to ensure the safety and welfare of the disabled person."

8 SECTION 30.

9 Said title is further amended by striking Code Section 42-8-80, relating to the establishment,
10 operation, rules, and regulations of the Department of Corrections pretrial release and
11 diversion programs, and inserting in lieu thereof the following:

12 "42-8-80.

13 ~~The Department~~ of Corrections shall be authorized to establish and operate pretrial release
14 and diversion programs as rehabilitative measures for persons charged with felonies for
15 which bond is permissible under the law in the courts of this state prior to conviction;
16 provided, however, that no such program shall be established in a county without the
17 unanimous approval of the superior court judges, the district attorney, and the sheriff of
18 such county. The Board of Corrections shall promulgate rules and regulations governing
19 any pretrial release and diversion programs established and operated by ~~the department~~
20 corrections and shall grant authorization for the establishment of such programs based on
21 the availability of sufficient staff and resources."

22 SECTION 31.

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

26 "42-8-82.

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

SECTION 32.

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

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

SECTION 33.

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

"(a) No judicial officer, probation officer, probation/parole supervisor, law enforcement officer, or other officer or employee of a court; person who owns, operates, or is employed by a private company which has contracted to provide private probation services for misdemeanor cases; or professional bondsman or agent or employee thereof shall specify, directly or indirectly, a particular provider center which the person may or shall utilize when use of an ignition interlock device is required. This subsection shall not prohibit any judicial officer, probation officer, probation/parole supervisor, law enforcement officer, or other officer or employee of a court; owner, operator, or employee of a private company which has contracted to provide probation services for misdemeanor cases; or professional bondsman or agent or employee thereof from furnishing any person, upon request, the names of certified provider centers."

SECTION 34.

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

"42-8-116.

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

1 respect to supervision of parolees and other persons released from confinement shall not
 2 include inmates released from confinement on or after July 1, 2004."

3 SECTION 37.

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

7 "42-9-21.

8 (a) The board shall have the function and responsibility of supervising all persons placed
 9 on parole or other conditional release by the board prior to July 1, 2004. On and after July
 10 1, 2004, the division shall have the function and responsibility of supervising all persons
 11 placed on parole or other conditional release by the board.

12 (b) The board ~~is~~ and the division are authorized to maintain and operate or to enter into
 13 memoranda of agreement or other written documents evidencing contracts with other state
 14 agencies, persons, or any other entities for transitional or intermediate or other services or
 15 for programs deemed by the board or the division to be necessary for parolees or others
 16 conditionally released from imprisonment by order of the board and to require as a
 17 condition of relief that the offender pay directly to the provider a reasonable fee for said
 18 services or programs.

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

21 SECTION 38.

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

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

31 (2) The board may require the payment of a parole supervision fee of at least \$10.00 per
 32 month as a condition of parole or other conditional release. The monthly amount shall be
 33 set by rule of the board and shall be uniform state wide. The board may require or the
 34 parolee or person under conditional release may request that up to 24 months of the
 35 supervision fee be paid in advance of the time to be spent on parole or conditional

1 release. In such cases, any advance payments are nonreimbursable in the event of parole
 2 or conditional release revocation or if parole or conditional release is otherwise
 3 terminated prior to the expiration of the sentence being served on parole or conditional
 4 release. ~~Such~~ The fees shall be collected by ~~the board to~~ a probation/parole supervisor
 5 and shall be paid into the general fund of the state treasury."

6 SECTION 39.

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

9 "42-9-44.

10 (a) The board, upon placing a person on parole, shall specify in writing the terms and
 11 conditions thereof. A certified copy of the conditions shall be given to the parolee.
 12 Thereafter, a copy shall be sent to the clerk of the court in which the person was convicted.
 13 The board shall adopt general rules concerning the terms and conditions of parole and
 14 concerning what shall constitute a violation thereof and shall make special rules to govern
 15 particular cases. The rules, both general and special, may include, among other things, a
 16 requirement that the parolee shall not leave this state or any definite area in this state
 17 without the consent of the board; that the parolee shall contribute to the support of his or
 18 her dependents to the best of the parolee's ability; that the parolee shall make reparation
 19 or restitution for his or her crime; that the parolee shall abandon evil associates and ways;
 20 and that the parolee shall carry out the instructions of his or her probation/parole
 21 supervisor, and, in general, so comport himself or herself as the ~~parolee's~~ supervisor shall
 22 determine. A violation of the terms of parole may render the parolee liable to arrest and a
 23 return to a penal institution to serve out the term for which the parolee was sentenced.

24 (b) Each parolee who does not have a high school diploma or a general educational
 25 development equivalency diploma (GED) shall be required as a condition of parole to
 26 obtain a high school diploma or general educational development equivalency diploma
 27 (GED) or to pursue a trade at a vocational or technical school. Any such parolee who
 28 demonstrates to the satisfaction of the board an existing ability or skill which does in fact
 29 actually furnish the parolee a reliable, regular, and sufficient income shall not be subject
 30 to this provision. Any parolee who is determined by the ~~Department of Corrections~~ division
 31 or the board to be incapable of completing such requirements shall only be required to
 32 attempt to improve their basic educational skills. Failure of any parolee subject to this
 33 requirement to attend the necessary schools or courses or to make reasonable progress
 34 toward fulfillment of such requirement shall be grounds for revocation of parole. The board
 35 shall establish regulations regarding reasonable progress as required by this subsection.
 36 This subsection shall apply to paroles granted on or after July 1, 1995."

SECTION 43.

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

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

SECTION 44.

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

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

SECTION 45.

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

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

- (1) The other person is lawfully acting within the course and scope of employment; and
- (2) The person has knowledge or reason to know that the other person is employed as:
 - (A) A peace officer as defined in paragraph (8) of Code Section 35-8-2;
 - (B) A probation/parole officer, or other employee with the power of arrest, by the Department of Corrections or the division of probation/parole community based supervision;

1 (C) A probation/parole supervisor, or other employee with the power of arrest, by the
 2 ~~State Board of Pardons and Paroles~~ division of probation/parole community based
 3 supervision;

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

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

10 SECTION 46.

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

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

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

19 (2) Providing to a law enforcement officer, adult probation/parole supervisor or juvenile
 20 probation officer, prosecuting attorney, or judge any information relating to the
 21 commission or possible commission of an offense under the laws of this state or of the
 22 United States or a violation of conditions of bail, pretrial release, probation, or parole
 23 shall be guilty of the offense of a terroristic threat or act and, upon conviction thereof, shall
 24 be punished, for a terroristic threat, by imprisonment for not less than five nor more than
 25 ten years or by a fine of not less than \$50,000.00, or both, and, for a terroristic act, by
 26 imprisonment for not less than five nor more than 20 years or by a fine of not less than
 27 \$100,000.00, or both."

28 SECTION 47.

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

32 "(1) A peace officer of any duly authorized police agency of this state or of any political
 33 subdivision thereof, or a law enforcement officer of any department or agency of the
 34 United States who is regularly employed and paid by the United States, this state, or any
 35 such political subdivision, or an employee of the Department of Corrections of this state

1 who is authorized in writing by the commissioner of corrections to transfer or possess
 2 such firearms while in the official performance of his or her duties, or an employee of the
 3 division of probation/parole community based supervision of this state who is authorized
 4 in writing by the director of the division of probation/parole community based
 5 supervision to transfer or possess such firearms while in the official performance of his
 6 or her duties;"

7 SECTION 48.

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

11 "(a)(1) Except in cases in which life imprisonment, life without parole, or the death
 12 penalty may be imposed, upon a verdict or plea of guilty in any case involving a
 13 misdemeanor or felony, and after a presentence hearing, the judge fixing the sentence
 14 shall prescribe a determinate sentence for a specific number of months or years which
 15 shall be in conformity with any mandatory minimum sentences required by law or shall
 16 be within the minimum and maximum prescribed by law as the punishment for the crime.
 17 The judge imposing the sentence is granted power and authority to suspend or probate all
 18 or any part of the entire sentence under such rules and regulations as the judge deems
 19 proper, including the authority to revoke the suspension or probation when the defendant
 20 has violated any of the rules and regulations prescribed by the court, even before the
 21 probationary period has begun, subject to the conditions set out in this subsection;
 22 provided, however, that such action shall be subject to the provisions of Code Section
 23 17-10-6.1.

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

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

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

19 (4) In cases of imprisonment followed by probation, the sentence shall specifically
20 provide that the period of probation shall not begin until the defendant has completed
21 service of the confinement portion of the sentence or been released from confinement by
22 the State Board of Pardons and Paroles as provided in Code Section 17-10-1.3. No With
23 respect to a sentence entered prior to July 1, 2004, no revocation of any part of a probated
24 sentence shall be effective while a defendant is in the legal custody of the State Board of
25 Pardons and Paroles.

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

1 (B) The ~~Department of Corrections~~ division of probation/parole community based
 2 supervision shall establish a form document which shall include the elements set forth
 3 in this Code section concerning notification of victims and shall make copies of such
 4 form available to prosecuting attorneys in the state. When requested by the victim, the
 5 form document shall be provided to the victim by the prosecuting attorney. The form
 6 shall include the address of the probation/parole community based supervision office
 7 having jurisdiction over the case and contain a statement that the victim must maintain
 8 a copy of his or her address with the probation/parole community based supervision
 9 office and must notify the office of any change of address in order to maintain
 10 eligibility for notification by the ~~Department of Corrections~~ division of probation/parole
 11 community based supervision as required in this Code section.

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

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

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

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

26 SECTION 49.

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

29 "17-10-1.3.

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

32 (b) In any case where a judge on or after July 1, 2004, sentences a defendant to a split
 33 sentence, post-incarceration supervision of the defendant shall be conducted exclusively
 34 by the division of probation/parole community based supervision and not by the State
 35 Board of Pardons and Paroles, regardless of whether the defendant has served the full
 36 period of incarceration ordered in the sentence or has been released prior to the full period

1 of incarceration by parole, conditional release, or other action of the State Board of Pardons
2 and Paroles.

3 (c) Any split sentence order entered on or after July 1, 2004, shall provide that the
4 post-incarceration period of probation ordered in the sentence shall be increased by an
5 amount of time equal to any amount of time by which the period of incarceration is
6 decreased by the State Board of Pardons and Paroles. Such increased portion of the period
7 of probation shall run concurrently with the period of time by which the period of
8 incarceration was decreased and shall commence upon the defendant's release from
9 incarceration. Any split sentence order entered on or after July 1, 2004, which by its terms
10 fails to so provide for the increased period of probation shall be deemed to so provide by
11 operation of law.

12 (d) In any case where a judge on or after July 1, 2004, sentences a defendant for a felony
13 offense to straight probation or to an alternative probation confinement facility, supervision
14 of the defendant shall be conducted exclusively by the division of probation/parole
15 community based supervision and not by the state-wide probation system.

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

18 **SECTION 50.**

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

22 "(a) In any case, except cases in which the death penalty is imposed or cases involving a
23 serious violent felony as defined in subsection (a) of Code Section 17-10-6.1, in which a
24 sentence of 12 or more years, or several consecutive sentences which total 12 or more
25 years, has been fixed and imposed by a judge, without a jury, the defendant shall have the
26 right to have the sentence or sentences reviewed by a panel of three superior court judges
27 to determine whether the sentence or sentences so imposed are excessively harsh.
28 Consideration shall be given in the review to the nature of the crime for which the
29 defendant has been convicted and to the defendant's prior criminal record. Any defendant
30 seeking a review of such sentence or sentences shall make application therefor within 30
31 days of the date on which the sentence was imposed by a judge of the superior court or
32 after the remittitur from the Court of Appeals or Supreme Court affirming the conviction
33 is made the judgment of the sentencing court, whichever occurs last. The application shall
34 be filed with the clerk of the superior court in which the sentence was imposed. Upon the
35 filing of an application the clerk shall transmit the same to the three-judge panel created
36 under this Code section within ten days of the date on which the application was filed. For

1 such service, the clerk shall receive the fees prescribed in Code Section 15-6-77 from the
 2 funds of the county, except where the clerk is on a salary. It shall be the duty of the judge
 3 imposing the sentence and any probation/parole supervisor ~~officer~~ to transmit, within ten
 4 days of the filing of an application for review of a sentence, a copy of any presentence or
 5 postsentence report prepared by the probation/parole supervisor ~~officer~~, including the
 6 record of the defendant, to the three-judge panel."

7 **SECTION 51.**

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

11 "(c) When a defendant submits a request to the sentencing judge to be allowed to surrender
 12 voluntarily to a county jail or a correctional facility, the judge may consider the request and
 13 if, taking into the consideration the crime for which the defendant is being sentenced, the
 14 history of the defendant, and any other factors which may aid in the decision, the judge
 15 determines that the granting of the request will pose no threat to society, the defendant shall
 16 be remanded to the supervision of a probation/parole supervisor ~~officer~~ by the judge and
 17 ordered to surrender voluntarily to a county jail designated by the court or to a correctional
 18 institution as thereafter designated by the Department of Corrections. The surrender date
 19 shall be a date thereafter specified as provided in subsection (d) of this Code section. The
 20 sentence of any defendant who is released pursuant to this Code section shall not begin to
 21 run until such person surrenders to the facility designated by the court or by the ~~department~~
 22 Department of Corrections, provided that such person will receive credit toward his or her
 23 sentence for time spent in confinement awaiting trial as provided in Code Section
 24 17-10-11.

25 (d) In the event the defendant is ordered to surrender voluntarily to a county jail, the court
 26 shall designate the date on which the defendant shall surrender, which date shall not be
 27 more than 120 days after the date of conviction. When the sentencing judge issues an order
 28 requiring a defendant to surrender voluntarily to a correctional institution, the Department
 29 of Corrections shall authorize the commitment and designate the correctional institution
 30 to which the defendant shall report and the date on which the defendant is to report, which
 31 date shall not be more than 120 days after the date of conviction. Upon such designation,
 32 the ~~department~~ Department of Corrections shall notify the ~~supervising~~ defendant's
 33 probation/parole supervisor ~~officer~~ who shall notify the defendant accordingly. Subsistence
 34 and transportation expenses en route to the correctional institution shall be borne by the
 35 defendant."

SECTION 52.

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

"(5) 'Custodial authority' means a warden, sheriff, jailer, deputy sheriff, police officer, correctional officer, officer or employee of the Department of Corrections, division of probation/parole community based supervision, or the Department of Juvenile Justice, or any other law enforcement officer having actual custody of the accused."

SECTION 53.

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

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

SECTION 54.

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."

1 the supervision of youth who are charged with or adjudicated for an act which if
2 committed by adults would be considered a crime."

3 **SECTION 59.**

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

6 **SECTION 60.**

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