

House Bill 1567

By: Representatives Greene of the 134th, Butler of the 88th, Post 1, Barnard of the 121st, Post 1, Buckner of the 109th, and Reece of the 11th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to
2 probation, so as to provide for probation services by private entities and local governments;
3 to change certain provisions relating to applicability of the state-wide probation system to
4 counties establishing probation systems or entering into agreements for private probation
5 services pursuant to Code Section 42-8-100; to change certain provisions relating to
6 agreements for probation services; to provide effective dates; to repeal conflicting laws; and
7 for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to probation, is
11 amended by striking Code Section 42-8-30.1, relating to applicability of the state-wide
12 probation system to counties establishing probation systems or entering into agreements for
13 private probation services pursuant to Code Section 42-8-100, and inserting in lieu thereof
14 the following:

15 "42-8-30.1.

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

22 **SECTION 2.**

23 Said chapter is further amended by striking Article 6, relating to agreements for probation
24 services, and inserting in lieu thereof the following:

"ARTICLE 6

42-8-100.

(a) As used in this article, the term:

(1) 'Council' means the County and Municipal Probation Advisory Council created under Code Section 42-8-101.

(2) 'Private probation officer' means a probation officer employed by a private corporation, private enterprise, or private agency that provides probation services.

(3) 'Probation officer' means a person employed to supervise defendants placed on probation by a county or municipal court for committing an ordinance violation or misdemeanor.

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

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

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

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

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

1 (f)(g)(1) The chief judge of any court within the county, with the approval of the
2 governing authority of that county, is authorized to enter into written contracts with
3 corporations, enterprises, or agencies to provide probation supervision, counseling,
4 collection services for all moneys to be paid by a defendant according to the terms of the
5 sentence imposed on the defendant as well as any moneys which by operation of law are
6 to be paid by the defendant in consequence of the conviction, and other probation
7 services for persons convicted in that court and placed on probation in the county. In no
8 case shall a private probation corporation or enterprise be charged with the responsibility
9 for supervising a felony sentence. The final contract negotiated by the chief judge with
10 the private probation entity shall be attached to the approval by the governing authority
11 of the county to privatize probation services as an exhibit thereto. The termination of a
12 contract for probation services as provided for in this subsection entered into on or after
13 July 1, 2001, shall be initiated by the chief judge of the court which entered into the
14 contract, and subject to approval by the governing authority of the county which entered
15 into the contract and in accordance with the agreed upon, written provisions of such
16 contract. The termination of a contract for probation services as provided for in this
17 subsection in existence on July 1, 2001, and which contains no provisions relating to
18 termination of such contract shall be initiated by the chief judge of the court which
19 entered into the contract, and subject to approval by the governing authority of the county
20 which entered into the contract and in accordance with the agreed upon, written
21 provisions of such contract.

22 (2) The chief judge of any court within the county, with the approval of the governing
23 authority of that county, is authorized to establish a county probation system to provide
24 probation supervision, counseling, collection services for all moneys to be paid by a
25 defendant according to the terms of the sentence imposed on the defendant as well as any
26 moneys which by operation of law are to be paid by the defendant in consequence of the
27 conviction, and other probation services for persons convicted in that court and placed
28 on probation in the county. In no case shall probation services established by the local
29 governing authority be charged with the responsibility for supervising a felony sentence.
30 The final agreement entered into by the chief judge with the local governing authority for
31 the establishment of probation services shall be attached to the approval by the governing
32 authority of the county to establish probation services as an exhibit thereto. The
33 termination of an agreement for probation services as provided for in this subsection shall
34 be initiated by the chief judge of the court which entered into the agreement, and subject
35 to approval by the governing authority of the county which entered into the agreement
36 and in accordance with the written provisions of such agreement.

1 ~~(g)~~(h)(1) The judge of the municipal court of any municipality or consolidated
 2 government of a municipality and county of this state, with the approval of the governing
 3 authority of that municipality or consolidated government, is authorized to enter into
 4 written contracts with private corporations, enterprises, or agencies to provide probation
 5 supervision, counseling, collection services for all moneys to be paid by a defendant
 6 according to the terms of the sentence imposed and any moneys which by operation of
 7 law are to be paid by the defendant in consequence of the conviction, and other probation
 8 services for persons convicted in such court and placed on probation. The final contract
 9 negotiated by the judge with the private probation entity shall be attached to the approval
 10 by the governing authority of the municipality or consolidated government to privatize
 11 probation services as an exhibit thereto.

12 (2) The judge of the municipal court of any municipality or consolidated government of
 13 a municipality and county of this state, with the approval of the governing authority of
 14 that municipality or consolidated government, is authorized to establish a probation
 15 system to provide probation supervision, counseling, collection services for all moneys
 16 to be paid by a defendant according to the terms of the sentence imposed and any moneys
 17 which by operation of law are to be paid by the defendant in consequence of the
 18 conviction, and other probation services for persons convicted in such court and placed
 19 on probation. In no case shall probation services established by a municipality or
 20 consolidated government be charged with the responsibility for supervising a felony
 21 sentence. The final agreement entered into by the judge with the local governing
 22 authority for the establishment of probation services shall be attached to the approval by
 23 the governing authority of the municipality or consolidated government to establish
 24 probation services as an exhibit thereto. The termination of an agreement for probation
 25 services as provided for in this subsection shall be initiated by the judge of the court
 26 which entered into the agreement, and subject to approval by the governing authority of
 27 the municipality or consolidated government which entered into the agreement and in
 28 accordance with the written provisions of such agreement.

29 42-8-101.

30 (a) There is created the County and Municipal Probation Advisory Council, to be
 31 composed of one superior court judge designated by The Council of Superior Court Judges
 32 of Georgia, one state court judge designated by The Council of State Court Judges of
 33 Georgia, one municipal court judge designated by the Council of Municipal Court Judges
 34 of Georgia, one sheriff appointed by the Governor, one probate court judge designated by
 35 The Council of Probate Court Judges of Georgia, one magistrate designated by the Council
 36 of Magistrate Court Judges, the commissioner of corrections or his or her designee, one

1 ~~public~~ Department of Corrections probation officer appointed by the Governor, one private
 2 probation officer or individual with expertise in private probation services by virtue of his
 3 or her training or employment appointed by the Governor, one mayor or member of a
 4 municipal governing authority appointed by the Governor, and one county commissioner
 5 appointed by the Governor. Members of the council appointed by the Governor shall be
 6 appointed for terms of office of four years. The commissioner of corrections or his or her
 7 designee and the Department of Corrections probation officer shall serve in an advisory
 8 capacity only. With the exceptions of the ~~public~~ Department of Corrections probation
 9 officer, the county commissioner, the sheriff, the mayor or member of a municipal
 10 governing authority, and the commissioner of corrections or his or her designee, each
 11 designee or representative shall be employed in their representative capacity in a judicial
 12 circuit operating under a contract with a private corporation, enterprise, or agency as
 13 provided under Code Section 42-8-100. No person shall serve beyond the time he or she
 14 holds the office or employment by reason of which he or she was initially eligible for
 15 appointment. In the event of death, resignation, disqualification, or removal for any reason
 16 of any member of the council, the vacancy shall be filled in the same manner as the original
 17 appointment and any successor shall serve for the unexpired term. Such council shall
 18 promulgate rules and regulations regarding contracts or agreements for the provision of
 19 probation services and the conduct of business by uniform standards of operation
 20 applicable to private entities providing probation services and county, municipality, or
 21 consolidated governments establishing probation systems as authorized by this article.

22 (b) The business of the council shall be conducted in the following manner:

23 (1) The council shall annually elect a chairperson and a vice chairperson from among its
 24 membership. The offices of chairperson and vice chairperson shall be filled in such a
 25 manner that they are not held in succeeding years by representatives of the same
 26 component (law enforcement, courts, corrections) of the criminal justice system;

27 (2) The council shall meet at such times and places as it shall determine necessary or
 28 convenient to perform its duties. The council shall also meet on the call of the chairperson
 29 or at the written request of three of its members;

30 (3) The council shall maintain minutes of its meetings and such other records as it deems
 31 necessary; and

32 (4) The council shall adopt such rules for the transaction of its business as it shall desire
 33 and may appoint such committees as it considers necessary to carry out its business and
 34 duties.

35 (c) Members of the council shall serve without compensation but shall receive the same
 36 expense allowance per day as that received by a member of the General Assembly for each
 37 day such member of the council is in attendance at a meeting of such council, plus either

1 reimbursement for actual transportation costs while traveling by public carrier or the same
 2 mileage allowance for use of a personal motor vehicle in connection with such attendance
 3 as members of the General Assembly receive. Payment of such expense and travel
 4 allowance shall be subject to availability of funds and shall be in lieu of any per diem,
 5 allowance, or other remuneration now received by any such member for such attendance.

6 (d) The council is assigned to the Administrative Office of the Courts for administrative
 7 purposes only in accordance with Code Section 50-4-3. The funds necessary to carry out
 8 the provisions of this article shall come from funds appropriated to the Administrative
 9 Office of the Courts or otherwise available to the council. The ~~council~~ Administrative
 10 Office of the Courts is authorized to accept and use grants of funds on behalf of the council
 11 for the purpose of carrying out the provisions of this article.

12 (e) The council shall have the following powers and duties:

13 (1) To promulgate rules and regulations for the administration of the council, including
 14 rules of procedure for its internal management and control;

15 (2) To ~~review the~~ promulgate rules and regulations to implement those uniform
 16 professional standards for private probation officers and uniform contract standards for
 17 private probation contracts established in Code Section 42-8-102 ~~and submit a report with~~
 18 ~~its recommendations to the General Assembly;~~

19 (3) To promulgate rules and regulations to implement those uniform professional
 20 standards for probation officers employed by a governing authority of a county,
 21 municipality, or consolidated government that has established probation services and
 22 uniform agreement standards for the establishment of probation services by a county,
 23 municipality, or consolidated government established in Code Section 42-8-102;

24 ~~(3)~~(4) To promulgate rules and regulations establishing a 40 hour initial orientation for
 25 newly hired private probation officers and for 20 hours per annum of continuing
 26 education for private probation officers, provided that the 40 hour initial orientation shall
 27 not be required of any person who has successfully completed a probation or parole
 28 officer basic course of training certified by the Georgia Peace Officer Standards and
 29 Training Council or any private probation officer who has been employed by a private
 30 probation corporation, enterprise, or agency for at least six months as of July 1, 1996;

31 (5) To promulgate rules and regulations establishing a 40 hour initial orientation for
 32 probation officers employed by a county, municipality, or consolidated government that
 33 has established probation services and for 20 hours per annum of continuing education
 34 for probation officers, provided that the 40 hour initial orientation shall not be required
 35 of any person who has successfully completed a probation or parole officer basic course
 36 of training certified by the Georgia Peace Officer Standards and Training Council or any

1 probation officer who has been employed by a county, municipality, or consolidated
 2 government as a probation officer at least six months as of July 1, 2004;

3 ~~(4)(6)~~ To promulgate rules and regulations relative to the enforcement of compliance
 4 with the provisions of this article, ~~which~~ and enforcement mechanisms which may
 5 include, but are not limited to, the imposition of sanctions and fines and the voiding of
 6 contracts or agreements;

7 ~~(5)(7)~~ To promulgate rules and regulations establishing registration for any private
 8 corporation, private enterprise, ~~or private~~ agency, county, municipality, or consolidated
 9 government providing probation services under the provisions of this article, subject to
 10 the provisions of ~~subsection (a) of~~ Code Section 42-8-107;

11 ~~(6)(8)~~ To produce an annual summary report. ~~Such report shall not contain information~~
 12 ~~identifying individual private corporations, nonprofit corporations, or enterprises or their~~
 13 ~~contracts; and~~

14 ~~(7)(9)~~ To promulgate rules and regulations requiring criminal record checks of private
 15 probation officers registered under this Code section and establishing procedures for such
 16 criminal record checks. ~~Such rules and regulations shall require a private probation entity~~
 17 ~~to conduct a criminal history records check, as provided in Code Section 35-3-34, for all~~
 18 ~~private probation officers employed by that entity, and to certify the results of such~~
 19 ~~criminal history records check to the council, in such detail as the council may require.~~
 20 ~~Notwithstanding Code Section 35-3-38 or any other provision of law, a private probation~~
 21 ~~entity shall, upon request, communicate criminal history record information on a private~~
 22 ~~probation officer to the~~ The Administrative Office of the Courts and on behalf of the
 23 ~~County and Municipal Probation Advisory Council~~ council shall conduct a criminal
 24 records check for probation officers as provided in Code Section 35-3-34. No applicant
 25 shall be registered who has previously been convicted of a felony. The council shall
 26 promulgate rules and regulations regarding registration requirements, including
 27 restrictions regarding misdemeanor convictions.

28 ~~(f) The initial standards, rules, and regulations of the County and Municipal Probation~~
 29 ~~Advisory Council promulgated under this article shall become effective on January 1,~~
 30 ~~1996.~~

31 42-8-102.

32 (a) The uniform professional standards contained in this subsection shall be met by any
 33 person employed as and using the title of a private probation officer. Any such person shall
 34 be at least 21 years of age at the time of appointment to the position of private probation
 35 officer and must have completed a standard two-year college course; provided, however,
 36 that any person ~~who is currently~~ employed as a private probation officer as of July 1, 1996,

1 ~~and who has had~~ at least six months of experience as a private probation officer or any
 2 person employed as a probation officer by a county, municipality, or consolidated
 3 government as of July 1, 2004, who had at least six months of experience as a probation
 4 officer as of such date shall be exempt from such college requirements. Every private
 5 probation officer shall receive an initial 40 hours of orientation upon employment and shall
 6 receive 20 hours of continuing education per annum as approved by the ~~County and~~
 7 ~~Municipal Probation Advisory Council~~ council, provided that the 40 hour initial orientation
 8 shall not be required of any person who has successfully completed a probation or parole
 9 officer basic course of training certified by the Peace Officer Standards and Training
 10 Council or any private probation officer who ~~has had~~ been employed by a private probation
 11 corporation, enterprise, or agency for at least six months as of July 1, 1996, or any person
 12 employed as a probation officer by a county, municipality, or consolidated government as
 13 of July 1, 2004, who had at least six months of experience as a probation officer as of such
 14 date. In no event shall any person convicted of a felony be employed as a private probation
 15 officer or utilize the title of private probation officer.

16 (b) The uniform contract standards contained in this ~~Code section~~ subsection shall apply
 17 to all private probation contracts executed under the authority of Code Section 42-8-100.
 18 The terms of any such contract shall state, at a minimum:

- 19 (1) The extent of the services to be rendered by the private corporation or enterprise
 20 providing probation supervision;
- 21 (2) Any requirements for staff qualifications, to include those contained in this Code
 22 section as well as any surpassing those contained in this Code section;
- 23 (3) Requirements for criminal record checks of staff in ~~accordance~~ compliance with the
 24 rules and regulations established by the ~~County and Municipal Probation Advisory~~
 25 ~~Council~~ council;
- 26 (4) Policies and procedures for the training of staff that comply with the rules and
 27 regulations established by the council;
- 28 (5) ~~Bonding of staff and~~ Proof of at least \$1 million in liability insurance coverage;
- 29 (6) Proof of bonding of staff with the bond made payable to the governing authority;
- 30 ~~(6)(7)~~ (7) Staffing levels and standards for offender supervision, including frequency and
 31 type of contacts with offenders;
- 32 ~~(7)(8)~~ (8) Procedures for handling the collection of all ~~court ordered~~ fines, fees, surcharges,
 33 and restitution required by court order or statute;
- 34 (9) Procedures for remitting all fines, fees, surcharges, costs, and restitution required by
 35 court order or statute and collected during each calendar month to the clerk of court or
 36 designated court official by the tenth day of the following calendar month;

1 ~~(8)~~(10) Procedures for handling indigent offenders to ensure placement of such indigent
2 offenders irrespective of the ability to pay;

3 ~~(9)~~(11) Circumstances Guidelines under which revocation of an offender's probation
4 may be recommended;

5 ~~(10)~~(12) Reporting and record-keeping requirements; and

6 ~~(11)~~(13) Default and contract termination procedures.

7 (c) The uniform agreement standards contained in this subsection shall apply to all county,
8 municipality, and consolidated governments that enter into agreements with a judge to
9 provide probation services under the authority of Code Section 42-8-100. The terms of any
10 such agreement shall state at a minimum:

11 (1) The extent of services to be rendered by the local governing authority providing
12 probation services;

13 (2) Any requirements for staff qualifications, to include those contained in this Code
14 section;

15 (3) Requirements for criminal record checks of staff in compliance with the rules and
16 regulations established by the council;

17 (4) Policies and procedures for the training of staff that comply with the rules and
18 regulations established by the council;

19 (5) Staffing levels and standards for offender supervision, including frequency and type
20 of contacts with offenders;

21 (6) Procedures for handling the collection of all court ordered fines, fees, surcharges, and
22 restitution;

23 (7) Procedures for remitting all fines, fees, surcharges, costs, and restitution required by
24 court order or statute and collected during each calendar month to the clerk of court or
25 designated court official by the tenth day of the following calendar month;

26 (8) Guidelines under which revocation of an offender's or defendant's probation will be
27 recommended;

28 (9) Reporting and record keeping requirements; and

29 (10) Default and agreement termination procedures.

30 ~~(e)~~(d) ~~The County and Municipal Probation Advisory Council~~ council shall review the
31 uniform professional standards and uniform contract and agreement standards contained
32 in subsections (a), ~~and (b), and (c)~~ of this Code section and shall submit a report on its
33 findings to the General Assembly. The council shall submit its initial report on or before
34 ~~July 1, 1997~~ January 1, 2005, and shall continue such reviews every two years thereafter.
35 ~~Nothing contained in such report shall be considered to authorize or require a change in the~~
36 ~~standards without action by the General Assembly having the force and effect of law. This~~
37 ~~report shall provide information which will allow the General Assembly to review the~~

1 ~~effectiveness of the minimum professional standards and, if necessary, to revise these~~
 2 ~~standards. This subsection shall not be interpreted to prevent the council from making~~
 3 ~~recommendations to the General Assembly prior to its required review and report.~~

4 42-8-103.

5 (a) Any private corporation, private enterprise, or private agency contracting to provide
 6 probation services or any county, municipality, or consolidated government entering into
 7 an agreement under the provisions of this article shall provide to the judge with whom the
 8 contract or agreement was made and the ~~County and Municipal Probation Advisory~~
 9 ~~Council~~ council a ~~quarterly~~ monthly report ~~summarizing~~ specifying the number of
 10 offenders ~~supervised by the private corporation, enterprise, or agency under supervision;~~
 11 the amount of fines, statutory surcharges and fees, court costs, and restitution collected; ~~and~~
 12 the amount of moneys remitted for the month to the clerk or court official; the number of
 13 offenders for whom supervision or rehabilitation has been terminated and the reason for
 14 the termination; and the number of warrants issued during the calendar month, in such
 15 detail as the council may require.

16 (b) Any private corporation, private enterprise, private agency, county, municipality, or
 17 consolidated government contracting or entering into an agreement to provide probation
 18 services under the provisions of this article shall provide to the court clerk or court official
 19 of the governing authority a monthly remittance of all fines, fees, surcharges, costs, and
 20 restitution required by court order or statute and collected during each calendar month to
 21 the clerk of court or designated court official by the tenth day of the following calendar
 22 month.

23 ~~(b)(c)~~ All records of any private corporation, private enterprise, or private agency
 24 contracting to provide services or of any county, municipality, or consolidated government
 25 entering into an agreement under the provisions of this article shall be open to inspection
 26 upon the request of the affected county, municipality, consolidated government, court, the
 27 Department of Audits and Accounts, or the ~~County and Municipal Probation Advisory~~
 28 ~~Council~~ council or its designee.

29 42-8-104.

30 (a) No private corporation, private enterprise, or private agency contracting to provide
 31 probation services under the provisions of this article nor any employees of such entities
 32 shall engage in any other employment, business, or activity which interferes or conflicts
 33 with the duties and responsibilities under contracts authorized in this article.

34 (b) No private corporation, private enterprise, or private agency contracting to provide
 35 probation services under the provisions of this article nor its employees shall have personal

1 or business dealings, including the lending of money, with probationers under their
2 supervision.

3 (c)(1) No private corporation, private enterprise, or private agency contracting to provide
4 probation services under the provisions of this article on or after January 1, 1997, nor any
5 employees of such entities, shall own, operate, have any financial interest in, be an
6 instructor at, or be employed by any private entity which provides drug or alcohol
7 education services or offers a DUI Alcohol or Drug Use Risk Reduction Program
8 certified by the Department of Human Resources.

9 (2) No private corporation, private enterprise, or private agency contracting to provide
10 probation services under the provisions of this article nor any employees of such entities
11 shall specify, directly or indirectly, a particular DUI Alcohol or Drug Use Risk Reduction
12 Program which a probationer may or shall attend. This paragraph shall not prohibit
13 furnishing any probationer, upon request, with the names of certified DUI Alcohol or
14 Drug Use Risk Reduction Programs. Any person violating this paragraph shall be guilty
15 of a misdemeanor.

16 42-8-105.

17 ~~The provisions of this article shall not affect the ability of local governments to enter into~~
18 ~~intergovernmental agreements for probation services.~~

19 (a) No county, municipality, or consolidated government probation officer or other
20 probation office employee shall engage in any other employment, business, or activity
21 which interferes or conflicts with the duties and responsibilities under agreements
22 authorized in this article.

23 (b) No county, municipality, or consolidated government probation officer or other
24 probation office employee shall have personal or business dealings, including the lending
25 of money, with probationers under the supervision of such probation office.

26 (c)(1) No county, municipality, or consolidated government probation officer or other
27 probation office employee shall own, operate, have any financial interest in, be an
28 instructor at, or be employed by any private entity which provides drug or alcohol
29 education services or offers a DUI Alcohol or Drug Use Risk Reduction Program
30 certified by the Department of Human Resources.

31 (2) No county, municipality, or consolidated government that provides probation
32 services through an agreement under the provisions of this article nor any employees of
33 such shall specify, directly or indirectly, a particular DUI Alcohol or Drug Use Risk
34 Reduction Program which a probationer may or shall attend. This paragraph shall not
35 prohibit furnishing any probationer, upon request, with the names of certified DUI

1 Alcohol or Drug Use Risk Reduction Programs. Any person violating this paragraph
 2 shall be guilty of a misdemeanor.

3 42-8-106.

4 (a) All reports, files, records, and papers of whatever kind relative to the supervision of
 5 probationers by a private corporation, private enterprise, or private agency contracting
 6 under the provisions of this article or county, municipality, or consolidated government
 7 providing probation services under the provisions of this article are declared to be
 8 confidential and shall be available only to the affected county, municipality, or
 9 consolidated government, the judge handling a particular case, the Department of Audits
 10 and Accounts, ~~or and the County and Municipal Probation Advisory Council~~ council or its
 11 designee.

12 (b) In the event of a transfer of the supervision of a probationer from a private corporation,
 13 private enterprise, or private agency or local governing authority providing probation
 14 services under the provision of this article to the Department of Corrections, the
 15 Department of Corrections shall have access to any relevant reports, files, records, and
 16 papers of the transferring ~~private~~ entity. All reports, files, records, and papers of whatever
 17 kind relative to the supervision of probationers by private corporations, private enterprises,
 18 or private agencies under contracts authorized by this article or local governing authorities
 19 providing probation services under agreements authorized by this article shall not be
 20 subject to process of subpoena.

21 42-8-107.

22 (a)(1) All private corporations, private enterprises, and private agencies contracting or
 23 offering to contract for probation services shall register with the ~~County and Municipal~~
 24 ~~Probation Advisory Council~~ council before entering into any contract to provide services.
 25 The information included in such registration shall include the name of the corporation,
 26 enterprise, or agency, its principal business address and telephone number, the name of
 27 its agent for communication, and other information in such detail as the council may
 28 require. ~~No registration fee shall be required.~~

29 (2) All private corporations, private enterprises, and private agencies contracting or
 30 offering to contract for probation services shall pay an annual registration fee for each
 31 court served. The registration fee shall be determined by the council. The registration
 32 fee shall be set in an amount that covers the reasonable administrative costs of
 33 registration and oversight of probation entities, and shall be paid to the Administrative
 34 Office of the Courts as the fiscal agent for the council.

1 ~~(b)(3)~~ Any private corporation, private enterprise, or private agency required to register
 2 under the provisions of paragraph (1) of subsection (a) of this Code section ~~who~~ which
 3 fails or refuses to do so shall be subject to revocation of any existing contracts, in
 4 addition to any other fines or sanctions imposed by the ~~County and Municipal Probation~~
 5 ~~Advisory Council~~ council.

6 (b)(1) Any county, municipality, or consolidated government agreeing or offering to
 7 agree to establish a probation system shall register with the council before entering into
 8 an agreement with the court to provide services. The information included in such
 9 registration shall include the name of the county, municipality, or consolidated
 10 government, the principal business address and telephone number, a contact name for
 11 communication with the council, and other information in such detail as the council may
 12 require.

13 (2) No registration fee shall be required for any county, municipality, or consolidated
 14 government establishing a probation system.

15 (3) Any county, municipality, or consolidated government required to register under the
 16 provisions of paragraph (1) of subsection (a) of this Code section which fails or refuses
 17 to do so shall be subject to revocation of existing agreements, in addition to any other
 18 sanctions imposed by the council.

19 42-8-108.

20 (a) The probation providers standards contained in this Code section subsection shall be
 21 met by private corporations, private enterprises, or private agencies who which enter into
 22 written contracts for probation services under the authority of Code Section 42-8-100 on
 23 or after January 1, 1997 July 1, 2004. Any corporation, private enterprise, or private agency
 24 who which fails to meet the standards established in this Code section subsection on or
 25 after January 1, 1997 July 1, 2004, shall not be eligible to provide probation services in this
 26 state. All private corporations, private enterprises, or private agencies who which enter into
 27 written contracts for probation services under the authority of Code Section 42-8-100 on
 28 or after January 1, 1997 July 1, 2004, shall:

29 (1) ~~Maintain no less than \$1 million coverage in general liability insurance~~ Meet all
 30 requirements as outlined in subsection (b) of Code Section 42-8-102, relating to uniform
 31 contract standards;

32 (2) Not own or control any finance business or lending institution which makes loans to
 33 probationers under its supervision for the payment of probation fees or fines; and

34 (3) Employ at least one person who is responsible for the direct supervision of probation
 35 officers employed by the corporation, enterprise, or agency and who shall have at least
 36 five years' experience in corrections, parole, or probation services; ~~provided, however,~~

1 that the five-year experience requirement shall not apply to any corporation, enterprise,
 2 or agency which is currently engaged in the provision of private probation services in this
 3 state on April 15, 1996.

4 (b) The standards contained in this subsection shall be met by all counties, municipalities,
 5 or consolidated governments entering into written agreements to provide probation services
 6 to any court under the authority of Code Section 42-8-100 on or after July 1, 2004. Any
 7 county, municipality, or consolidated government which fails to meet the standards
 8 established in this subsection on or after July 1, 2004, shall not be eligible to provide
 9 probation services. All counties, municipalities, or consolidated governments which enter
 10 into written agreements to provide probation services under the authority of Code Section
 11 42-8-100 on or after July 1, 2004, shall:

12 (1) Register with the council;

13 (2) Meet the requirements of subsection (c) of Code Section 42-8-102; and

14 (3) Employ at least one person who is responsible for the direct supervision of probation
 15 officers employed by the governing authority who shall have at least five years'
 16 experience in parole or probation services or law enforcement; provided, however, that
 17 the five year experience requirement shall not apply to any such supervisor employed by
 18 a county, municipality, or consolidated government which was engaged in the provision
 19 of probation services on April 15, 2004."

20 SECTION 3.

21 This Act shall become effective upon approval by the Governor or upon becoming law
 22 without such approval for purposes of promulgating rules and regulations; for all other
 23 purposes, this Act shall become effective July 1, 2004.

24 SECTION 4.

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