

The House Committee on State Institutions & Property offers the following substitute to HB 1567:

**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

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10

11 **SECTION 1.**

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

17 "42-8-30.1.

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

24

25 **SECTION 2.**

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

1 "ARTICLE 6

2 42-8-100.

3 (a) As used in this article, the term:4 (1) 'Council' means the County and Municipal Probation Advisory Council created under
5 Code Section 42-8-101.6 (2) 'Private probation officer' means a probation officer employed by a private
7 corporation, private enterprise, or private agency that provides probation services.8 (3) 'Probation officer' means a person employed to supervise defendants placed on
9 probation by a county or municipal court for committing an ordinance violation or
10 misdemeanor.11 (a)(b) Any county or municipal court which has original jurisdiction of ordinance
12 violations or misdemeanors and in which the defendant in such a case has been found
13 guilty upon verdict or ~~plea or has been sentenced upon a plea of nolo contendere any plea,~~
14 may, at a time to be determined by the court, hear and determine the question of the
15 probation of such defendant.16 (b)(c) If it appears to the court upon a hearing of the matter that the defendant is not likely
17 to engage in an unlawful course of conduct and that the ends of justice and the welfare of
18 society do not require that the defendant shall presently suffer the penalty imposed by law,
19 the court in its discretion shall impose sentence upon the defendant but may stay and
20 suspend the execution of the sentence or any portion thereof or may place him or her on
21 probation under the supervision and control of a probation supervisor officer for the
22 duration of such probation, subject to the provisions of this Code section. The period of
23 probation or suspension shall not exceed the maximum sentence of confinement which
24 could be imposed on the defendant.25 (c)(d)(1) The court may, in its discretion, require the payment of a fine or costs, or both,
26 as a condition precedent to probation.27 (2) The court may, in its discretion and for purposes of monitoring compliance with the
28 terms of the probated sentence, choose to track a defendant by mapping the defendant's
29 location and coordinating the data with crime scene information.30 (d)(e) The sentencing judge shall not lose jurisdiction over any person placed on probation
31 during the term of his or her probated sentence. The judge is empowered to revoke any or
32 all of the probated sentence, rescind any or all of the sentence, or, in any manner deemed
33 advisable by the judge, modify or change the probated sentence at any time during the
34 period of time originally prescribed for the probated sentence to run.35 (e)(f) If a defendant is placed on probation pursuant to this Code section by a county or
36 municipal court other than one for the county or municipality in which he or she resides for

1 committing any ordinance violation or misdemeanor, such defendant may, when
2 specifically ordered by the court, have his or her probation supervision transferred to the
3 county or municipality in which he or she resides.

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

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

1 to approval by the governing authority of the county which entered into the agreement
2 and in accordance with the written provisions of such agreement.

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

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

31 42-8-101.

32 (a) There is created the County and Municipal Probation Advisory Council, to be
33 composed of one superior court judge designated by The Council of Superior Court Judges
34 of Georgia, one state court judge designated by The Council of State Court Judges of
35 Georgia, one municipal court judge designated by the Council of Municipal Court Judges
36 of Georgia, one sheriff appointed by the Governor, one probate court judge designated by

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

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

- 30 (1) The council shall annually elect a chairperson and a vice chairperson from among its
31 membership. The offices of chairperson and vice chairperson shall be filled in such a
32 manner that they are not held in succeeding years by representatives of the same
33 component (law enforcement, courts, corrections) of the criminal justice system;
- 34 (2) The council shall meet at such times and places as it shall determine necessary or
35 convenient to perform its duties. The council shall also meet on the call of the chairperson
36 or at the written request of three of its members;

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

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

6 (c) Members of the council shall serve without compensation but shall receive the same
7 expense allowance per day as that received by a member of the General Assembly for each
8 day such member of the council is in attendance at a meeting of such council, plus either
9 reimbursement for actual transportation costs while traveling by public carrier or the same
10 mileage allowance for use of a personal motor vehicle in connection with such attendance
11 as members of the General Assembly receive. Payment of such expense and travel
12 allowance shall be subject to availability of funds and shall be in lieu of any per diem,
13 allowance, or other remuneration now received by any such member for such attendance.

14 (d) The council is assigned to the Administrative Office of the Courts for administrative
15 purposes only in accordance with Code Section 50-4-3. The funds necessary to carry out
16 the provisions of this article shall come from funds appropriated to the Administrative
17 Office of the Courts or otherwise available to the council. The council is authorized to
18 accept and use grants of funds for the purpose of carrying out the provisions of this article.

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

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

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

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

31 ~~(3)~~(4) To promulgate rules and regulations establishing a 40 hour initial orientation for
32 newly hired private probation officers and for ~~20~~ eight hours per annum of continuing
33 education for private probation officers, provided that the 40 hour initial orientation shall
34 not be required of any person who has successfully completed a probation or parole
35 officer basic course of training certified by the Georgia Peace Officer Standards and
36 Training Council or any private probation officer who has been employed by a private
37 probation corporation, enterprise, or agency for at least six months as of July 1, 1996;

1 (5) To promulgate rules and regulations establishing a 40 hour initial orientation for
2 probation officers employed by a county, municipality, or consolidated government that
3 has established probation services and for eight hours per annum of continuing education
4 for probation officers, provided that the 40 hour initial orientation shall not be required
5 of any person who has successfully completed a probation or parole officer basic course
6 of training certified by the Georgia Peace Officer Standards and Training Council or any
7 probation officer who has been employed by a county, municipality, or consolidated
8 government as a probation officer at least six months as of July 1, 2004;

9 (4)(6) To promulgate rules and regulations relative to the enforcement of compliance
10 with the provisions of this article, which and enforcement mechanisms which may
11 include, but are not limited to, the imposition of sanctions and fines and the voiding of
12 contracts or agreements;

13 (5)(7) To promulgate rules and regulations establishing registration for any private
14 corporation, private enterprise, or private agency, county, municipality, or consolidated
15 government providing probation services under the provisions of this article, subject to
16 the provisions of subsection (a) of Code Section 42-8-107;

17 (6)(8) To produce an annual summary report. Such report shall not contain information
18 identifying individual private corporations, nonprofit corporations, or enterprises or their
19 contracts; and

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

34 (f) The initial standards, rules, and regulations of the County and Municipal Probation
35 Advisory Council promulgated under this article shall become effective on January 1,
36 1996.

1 42-8-102.

2 (a) The uniform professional standards contained in this subsection shall be met by any
3 person employed as and using the title of a ~~private~~ probation officer. Any such person shall
4 be at least 21 years of age at the time of appointment to the position of ~~private~~ probation
5 officer and must have completed a standard two-year college course; provided, however,
6 that any person ~~who is currently~~ employed as a private probation officer as of July 1, 1996,
7 ~~and who has had~~ at least six months of experience as a private probation officer ~~or any~~
8 ~~person employed as a probation officer by a county, municipality, or consolidated~~
9 ~~government as of July 1, 2004, who had at least six months of experience as a probation~~
10 ~~officer as of such date~~ shall be exempt from such college requirements. Every private
11 probation officer shall receive an initial 40 hours of orientation upon employment and shall
12 receive ~~20~~ ~~eight~~ hours of continuing education per annum as approved by the ~~County and~~
13 ~~Municipal Probation Advisory Council~~ ~~council~~, provided that the 40 hour initial orientation
14 shall not be required of any person who has successfully completed a probation or parole
15 officer basic course of training certified by the Peace Officer Standards and Training
16 Council or any private probation officer who ~~has had~~ been employed by a private probation
17 corporation, enterprise, or agency for at least six months as of July 1, 1996, ~~or any person~~
18 ~~employed as a probation officer by a county, municipality, or consolidated government as~~
19 ~~of July 1, 2004, who had at least six months of experience as a probation officer as of such~~
20 ~~date~~. In no event shall any person convicted of a felony be employed as a ~~private~~ probation
21 officer or utilize the title of ~~private~~ probation officer.

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

- 25 (1) The extent of the services to be rendered by the private corporation or enterprise
26 providing probation supervision;
- 27 (2) Any requirements for staff qualifications, to include those contained in this Code
28 section as well as any surpassing those contained in this Code section;
- 29 (3) Requirements for criminal record checks of staff in accordance compliance with the
30 rules and regulations established by the ~~County and Municipal Probation Advisory~~
31 ~~Council~~ council;
- 32 (4) Policies and procedures for the training of staff that comply with the rules and
33 regulations established by the council;
- 34 (5) ~~Bonding of staff and Proof of at least \$1 million in~~ liability insurance coverage;
- 35 (6) Proof of bonding of staff with the bond made payable to the governing authority;
- 36 (6)(7) Staffing levels and standards for offender supervision, including frequency and
37 type of contacts with offenders;

- 1 (7)(8) Procedures for handling the collection of all court ordered fines, fees, surcharges,
2 and restitution required by court order or statute;
- 3 (9) Procedures for remitting all fines, fees, surcharges, and costs required by court order
4 or statute and collected during each calendar month to the clerk of court or designated
5 court official by the 15th day of the following calendar month;
- 6 (8)(10) Procedures for handling indigent offenders to ensure placement of such indigent
7 offenders irrespective of the ability to pay;
- 8 (9)(11) Circumstances Guidelines under which revocation of an offender's probation
9 may be recommended;
- 10 (10)(12) Reporting and record-keeping requirements; and
- 11 (11)(13) Default and contract termination procedures.

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

- 16 (1) The extent of services to be rendered by the local governing authority providing
17 probation services;
- 18 (2) Any requirements for staff qualifications, to include those contained in this Code
19 section;
- 20 (3) Requirements for criminal record checks of staff in compliance with the rules and
21 regulations established by the council;
- 22 (4) Policies and procedures for the training of staff that comply with the rules and
23 regulations established by the council;
- 24 (5) Staffing levels and standards for offender supervision, including frequency and type
25 of contacts with offenders;
- 26 (6) Procedures for handling the collection of all court ordered fines, fees, surcharges, and
27 restitution;
- 28 (7) Procedures for remitting all fines, fees, surcharges, and costs required by court order
29 or statute and collected during each calendar month to the clerk of court or designated
30 court official by the 15th day of the following calendar month;
- 31 (8) Guidelines under which revocation of an offender's or defendant's probation will be
32 recommended;
- 33 (9) Reporting and record keeping requirements; and
- 34 (10) Default and agreement termination procedures.

35 (e)(d) The County and Municipal Probation Advisory Council council shall review the
36 uniform professional standards and uniform contract and agreement standards contained
37 in subsections (a), and (b), and (c) of this Code section and shall submit a report on its

1 findings to the General Assembly. The council shall submit its initial report on or before
2 July 1, 1997 January 1, 2005, and shall continue such reviews every two years thereafter.
3 Nothing contained in such report shall be considered to authorize or require a change in the
4 standards without action by the General Assembly having the force and effect of law. This
5 report shall provide information which will allow the General Assembly to review the
6 effectiveness of the minimum professional standards and, if necessary, to revise these
7 standards. This subsection shall not be interpreted to prevent the council from making
8 recommendations to the General Assembly prior to its required review and report.

9 42-8-103.

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

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

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

1 42-8-104.

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

6 (b) No private corporation, private enterprise, or private agency contracting to provide
7 probation services under the provisions of this article nor its employees shall have personal
8 or business dealings, including the lending of money, with probationers under their
9 supervision.

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

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

23 42-8-105.

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

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

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

33 (c)(1) No county, municipality, or consolidated government probation officer or other
34 probation office employee shall own, operate, have any financial interest in, be an
35 instructor at, or be employed by any private entity which provides drug or alcohol

1 education services or offers a DUI Alcohol or Drug Use Risk Reduction Program
2 certified by the Department of Human Resources.

3 (2) No county, municipality, or consolidated government that provides probation
4 services through an agreement under the provisions of this article nor any employees of
5 such shall specify, directly or indirectly, a particular DUI Alcohol or Drug Use Risk
6 Reduction Program which a probationer may or shall attend. This paragraph shall not
7 prohibit furnishing any probationer, upon request, with the names of certified DUI
8 Alcohol or Drug Use Risk Reduction Programs. Any person violating this paragraph
9 shall be guilty of a misdemeanor.

10 42-8-106.

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

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

28 42-8-107.

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

1 (2) Beginning with calendar year 1995, each private corporation, private enterprise, or
2 private agency contracting or offering to contract for probation services shall pay an
3 annual registration fee of \$25.00 for each court it serves that has not more than 1,000
4 active offenders supervised by such court and \$50.00 for each court it serves that has
5 more than 1,000 active offenders supervised by such court. For purposes of determining
6 the applicable amount of annual registration fee due, the number of active offenders
7 served by any court shall be calculated as of December 31 of the preceding calendar year.

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

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

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

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

26 42-8-108.

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

- (1) Maintain no less than \$1 million coverage in general liability insurance Meet all requirements as outlined in subsection (b) of Code Section 42-8-102, relating to uniform contract standards;
 - (2) Not own or control any finance business or lending institution which makes loans to probationers under its supervision for the payment of probation fees or fines; and
 - (3) Employ at least one person who is responsible for the direct supervision of probation officers employed by the corporation, enterprise, or agency and who shall have at least five years' experience in corrections, parole, or probation services; provided, however, that the five-year experience requirement shall not apply to any corporation, enterprise, or agency which is currently engaged in the provision of private probation services in this state on April 15, 1996.

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

- (1) Register with the council;
 - (2) Meet the requirements of subsection (c) of Code Section 42-8-102; and
 - (3) Employ at least one person who is responsible for the direct supervision of probation officers employed by the governing authority who shall have at least five years' experience in parole or probation services or law enforcement; provided, however, that the five year experience requirement shall not apply to any such supervisor employed by a county, municipality, or consolidated government which was engaged in the provision of probation services on April 15, 2004."

SECTION 3.

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

SECTION 4.

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