

House Bill 1567 (COMMITTEE SUBSTITUTE) (AM)

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 nolo contendere~~ any plea, 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)(1) The court may, in its discretion, require the payment of a fine or costs, or both, as a condition precedent to probation.

(2) The court may, in its discretion and for purposes of monitoring compliance with the terms of the probated sentence, choose to track a defendant by mapping the defendant's location and coordinating the data with crime scene information.

~~(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

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)~~ (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 ~~(c)~~(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 2005, 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 ~~(1) Maintain no less than \$1 million coverage in general liability insurance~~ Meet all
 2 requirements as outlined in subsection (b) of Code Section 42-8-102, relating to uniform
 3 contract standards;

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

6 (3) Employ at least one person who is responsible for the direct supervision of probation
 7 officers employed by the corporation, enterprise, or agency and who shall have at least
 8 five years' experience in corrections, parole, or probation services; ~~provided, however,~~
 9 ~~that the five-year experience requirement shall not apply to any corporation, enterprise,~~
 10 ~~or agency which is currently engaged in the provision of private probation services in this~~
 11 ~~state on April 15, 1996.~~

12 (b) The standards contained in this subsection shall be met by all counties, municipalities,
 13 or consolidated governments entering into written agreements to provide probation services
 14 to any court under the authority of Code Section 42-8-100 on or after July 1, 2004. Any
 15 county, municipality, or consolidated government which fails to meet the standards
 16 established in this subsection on or after July 1, 2004, shall not be eligible to provide
 17 probation services. All counties, municipalities, or consolidated governments which enter
 18 into written agreements to provide probation services under the authority of Code Section
 19 42-8-100 on or after July 1, 2004, shall:

20 (1) Register with the council;

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

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

28 SECTION 3.

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

32 SECTION 4.

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