

House Bill 65

By: Representative Powell of the 29th

A BILL TO BE ENTITLED
AN ACT

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

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

11 42-14-4.

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

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

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

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

29 42-14-5.

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

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

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

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

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

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

14 42-14-6.

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

20 (b) The enactment of this chapter and the Act by which it is enacted shall not affect or
21 abate the status of a probation revocation or parole revocation which occurred prior to
22 July 1, 2005."

23 SECTION 2.

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

26 "42-1-10.

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

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

33 (1) Incarcerated;

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

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

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

15 SECTION 3.

16 Said title is further amended by striking Code Section 42-2-4, relating to the creation of the

17 Department of Corrections, and inserting in lieu thereof the following:

18 "42-2-4.

19 There is created the Department of Corrections. The department shall have a division of

20 probation/parole community based supervision within it."

21 SECTION 4.

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

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

24 following:

25 "42-8-2.

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

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

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

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

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

31 Corrections board, the division, and the Department of Corrections corrections on questions

32 and matters of mutual concern and interest relative to policy, personnel, and budget which

33 pertain to probationary activities, powers, duties, and responsibilities of the board, and the

34 department division, and corrections. The advisory council shall institute such studies and

35 surveys and shall make such recommendations to the board, corrections, and department

1 the division as the council deems wise and necessary and which, in the opinion of the
 2 council, will improve the effectiveness and efficiency of probation services rendered
 3 throughout the state. No change in existing policy of the board, corrections, or the
 4 ~~department~~ division relative to probation, if the magnitude of the change will result in a
 5 significant impact upon state-wide probationary services, or any such new policy, shall be
 6 instituted by the board, corrections, or ~~department~~ the division without opportunity being
 7 afforded to the advisory council to advise and consult with the board, corrections, or
 8 ~~department~~ the division on the proposed changes. However, the recommendations of the
 9 advisory council shall be advisory only and shall not bind the board, corrections, or
 10 ~~department~~ the division. The board, corrections, the ~~department~~ division, and the council
 11 shall meet periodically throughout each year for the purpose of improving the
 12 administration, efficiency, and effectiveness of probation services."

13 SECTION 5.

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

16 "42-8-21.

17 As used in this article, the term:

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

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

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

21 (4) 'Division' '~~Department~~' means the ~~Department of Corrections~~ division of
 22 probation/parole community based supervision.

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

25 SECTION 6.

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

28 "42-8-22.

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

31 The probation system shall not be administered as part of the duties and activities of the
 32 State Board of Pardons and Paroles; but, with respect to a split sentence imposed on or after
 33 July 1, 2005, the division shall have jurisdiction over any increased period of probation
 34 resulting from a release of the defendant by the State Board of Pardons and Paroles as

1 provided for in Code Section 17-10-1.3. Separate files and records shall be kept with
2 relation to the system."

3 **SECTION 7.**

4 Said title is further amended by striking Code Section 42-8-23, relating to the administration
5 of supervision of felony probationers by the Department of Corrections, and inserting in lieu
6 thereof the following:

7 "42-8-23.

8 The ~~department~~ division shall administer the supervision of felony probationers. Nothing
9 in this Code section shall alter the relationship between judges and probation/parole
10 supervisors prescribed in this article."

11 **SECTION 8.**

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

14 "42-8-24.

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

21 **SECTION 9.**

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

25 "42-8-25.

26 Corrections The ~~department~~ shall employ probation/parole supervisors. The ~~department~~
27 division may assign one supervisor to each judicial circuit in this state or, for purposes of
28 assignment, may consolidate two or more judicial circuits and assign one supervisor
29 thereto. In the event the ~~department~~ division determines that more than one supervisor is
30 needed for a particular circuit, an additional supervisor or additional supervisors may be
31 assigned to the circuit. The ~~department~~ division is authorized to direct any
32 probation/parole supervisor to assist any other probation/parole supervisor wherever
33 assigned. In the event that more than one supervisor is assigned to the same office or to

1 the same division within a particular judicial circuit, the ~~department~~ division shall designate
 2 one of the supervisors to be in charge."

3 SECTION 10.

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

7 "42-8-26.

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

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

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

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

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

32 (d) Each probation/parole supervisor shall give bond in such amount as may be fixed by
 33 ~~the department~~ corrections payable to ~~the department~~ corrections for the use of the person
 34 or persons damaged by his or her misfeasance or malfeasance and conditioned on the
 35 faithful performance of his or her duties. The cost of the bond shall be paid by ~~the~~
 36 ~~department~~ corrections; provided, however, that the bond may be procured, either by ~~the~~

1 ~~department~~ corrections or by the Department of Administrative Services, under a master
 2 policy or on a group blanket coverage basis, where only the number of positions in each
 3 judicial circuit and the amount of coverage for each position are listed in a schedule
 4 attached to the bond; and in such case each individual shall be fully bonded and bound as
 5 principal, together with the surety, by virtue of his or her holding the position or
 6 performing the duties of probation/parole supervisor in the circuit or circuits, and his or her
 7 individual signature shall not be necessary for such bond to be valid in accordance with all
 8 the laws of this state. The bond or bonds shall be made payable to ~~the department~~
 9 corrections."

10 SECTION 11.

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

13 "42-8-27.

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

18 SECTION 12.

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

21 "42-8-28.

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

24 SECTION 13.

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

28 "42-8-29.

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

1 (b) The probation/parole supervisor shall cause to be delivered to each person placed on
 2 probation under his or her supervision a certified copy of the terms of probation and any
 3 change or modification thereof and shall cause the person to be instructed regarding the
 4 same. ~~He~~ The probation/parole supervisor shall keep informed concerning the conduct,
 5 habits, associates, employment, recreation, and whereabouts of the probationer by visits,
 6 by requiring reports, or in other ways. ~~He~~ The probation/parole supervisor shall make ~~such~~
 7 reports in writing or otherwise as the court may require. ~~He~~ The probation/parole
 8 supervisor shall use all practicable and proper methods to aid and encourage persons on
 9 probation and to bring about improvements in their conduct and condition.

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

12 **SECTION 14.**

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

16 "42-8-29.1.

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

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

32 **SECTION 15.**

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

35 "42-8-30.

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

5 SECTION 16.

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

9 "42-8-31.

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

17 SECTION 17.

18 Said title is further amended by striking Code Section 42-8-32, relating to funds which may
 19 be collected by probation supervisors, and inserting in lieu thereof the following:

20 "42-8-32.

21 No probation/parole supervisor shall be directed to collect any funds other than funds
 22 directed to be paid as the result of a criminal proceeding."

23 SECTION 18.

24 Said title is further amended by striking Code Section 42-8-33, relating to auditing probation
 25 supervisors' accounts and restrictions on refunding overpayments of fines, restitution, or
 26 moneys owed, and inserting in lieu thereof the following:

27 "42-8-33.

28 (a) The ~~department~~ division shall make periodic audits of each probation/parole supervisor
 29 who, by virtue of ~~his~~ the supervisor's duties, has any moneys, fines, court costs, property,
 30 or other funds coming into ~~his~~ the supervisor's control or possession or being disbursed by
 31 ~~him~~ the supervisor. The ~~department~~ division shall keep a permanent record of the audit of
 32 each probation/parole supervisor's accounts on file. It shall be the duty of the employee
 33 of the ~~department~~ division conducting the audit to notify the ~~department~~ division in writing
 34 of any discrepancy of an illegal nature that might result in prosecution. The ~~department~~

1 division shall have the right to interview and make inquiry of certain selected payors or
 2 recipients of funds, as it may choose, without notifying the probation/parole supervisor, to
 3 carry out the purposes of the audit. The employee who conducts the audit shall be required
 4 to give bond in such amount as may be set by the ~~department~~ division, in the same manner
 5 and for the same purposes as provided under Code Section 42-8-26 for the bonds of
 6 probation/parole supervisors. The bond shall bind the employee and ~~his~~ the surety in the
 7 performance of ~~his~~ the employee's duties.

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

11 SECTION 19.

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

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

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

31 (d)(1) In every case that a court of this state or any other state sentences a defendant to
 32 probation or any pretrial release or diversion program under the supervision of the
 33 ~~department~~ division, in addition to any fine or order of restitution imposed by the court,
 34 there shall be imposed a probation fee as a condition of probation, release, or diversion
 35 in the amount equivalent to \$23.00 per each month under supervision, and in addition,
 36 a one-time fee of \$50.00 where such defendant was convicted of any felony. The

1 probation fee may be waived or amended after administrative process by the ~~department~~
 2 division and approval of the court, or upon determination by the court, as to the undue
 3 hardship, inability to pay, or any other extenuating factors which prohibit collection of
 4 the fee; provided, however, that the imposition of sanctions for failure to pay fees shall
 5 be within the discretion of the court through judicial process or hearings. Probation fees
 6 shall be waived on probationers incarcerated or detained in a ~~departmental~~ Department
 7 of Corrections or other confinement facility which prohibits employment for wages. All
 8 probation fees collected by the ~~department~~ division shall be paid into the general fund of
 9 the state treasury, except as provided in subsection (f) of Code Section 17-15-13, relating
 10 to sums to be paid into the Georgia Crime Victims Emergency Fund. Any fees collected
 11 by the court under this paragraph shall be remitted not later than the last day of the month
 12 after such fee is collected to the Georgia Superior Court Clerks' Cooperative Authority
 13 for deposit into the general fund of the state treasury.

14 (2) In addition to any other provision of law, any person convicted of a violation of Code
 15 Section 40-6-391 or subsection (b) of Code Section 16-13-2 who is sentenced to
 16 probation or a suspended sentence by a municipal, magistrate, probate, recorder's,
 17 mayor's, state, or superior court shall also be required by the court to pay a one-time fee
 18 of \$25.00. The clerk of court, or if there is no clerk the person designated to collect fines,
 19 fees, and forfeitures for such court, shall collect such fee and remit the same not later than
 20 the last day of the month after such fee is collected to the Georgia Superior Court Clerks'
 21 Cooperative Authority for deposit into the general fund of the state treasury."

22 SECTION 20.

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

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

SECTION 21.

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

"42-8-35.

(a) The court shall determine the terms and conditions of probation and may provide that the probationer shall:

(1) Avoid injurious and vicious habits;

(2) Avoid persons or places of disreputable or harmful character;

(3) Report to the probation/parole supervisor as directed;

(4) Permit the supervisor to visit the probationer at the probationer's home or elsewhere;

(5) Work faithfully at suitable employment insofar as may be possible;

(6) Remain within a specified location;

(7) Make reparation or restitution to any aggrieved person for the damage or loss caused by the probationer's offense, in an amount to be determined by the court. Unless otherwise provided by law, no reparation or restitution to any aggrieved person for the damage or loss caused by the probationer's offense shall be made if the amount is in dispute unless the same has been adjudicated;

(8) Make reparation or restitution as reimbursement to a municipality or county for the payment for medical care furnished the person while incarcerated pursuant to the provisions of Article 3 of Chapter 4 of this title. No reparation or restitution to a local governmental unit for the provision of medical care shall be made if the amount is in dispute unless the same has been adjudicated;

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

(10) Support the probationer's legal dependents to the best of the probationer's ability;

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

(12) If permitted to move or travel to another state, agree to waive extradition from any jurisdiction where the probationer may be found and not contest any effort by any jurisdiction to return the probationer to this state; and

(13) Submit to evaluations and testing relating to rehabilitation and participate in and successfully complete rehabilitative programming as directed by the department.

(b) In determining the terms and conditions of probation for a probationer who has been convicted of a criminal offense against a victim who is a minor as that phrase is defined in subparagraph (a)(4)(B) of Code Section 42-1-12, the court may provide that the probationer shall be:

1 (1) Prohibited from entering or remaining present at a victim's school, place of
 2 employment, place of residence, or other specified place at times when a victim is present
 3 or from entering or remaining present in areas where minors congregate, child care
 4 facilities, or schools as those terms are defined in subsection (a) of Code Section 42-1-13;

5 (2) Required to wear a device capable of tracking the location of the probationer by
 6 means including electronic surveillance or global positioning systems. Unless the
 7 probationer is indigent, the ~~department~~ division shall assess and collect fees from the
 8 probationer for such monitoring at levels set by regulation by the ~~department~~ division;
 9 and

10 (3) Prohibited from seeking election to a ~~Local Board of Education~~ local board of
 11 education."

12 SECTION 22.

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

15 "42-8-35.1.

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

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

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

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

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

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

25 SECTION 23.

26 Said title is further amended by striking subsection (c) of Code Section 42-8-35.4, relating
 27 to confinement in probation detention centers, and inserting in lieu thereof the following:

28 "(c) During the period of confinement, ~~the department~~ corrections may transfer the
 29 probationer to other facilities in order to provide needed physical and mental health care
 30 or for other reasons essential to the care and supervision of the probationer or as necessary
 31 for the effective administration and management of its facilities."

32 SECTION 24.

33 Said title is further amended by striking subsection (c) of Code Section 42-8-35.5, relating
 34 to confinement in probation diversion centers, and inserting in lieu thereof the following:

1 "(c) Corrections ~~The department~~ may assess and collect room and board fees from
 2 diversion center program participants at a level set by ~~the department~~ corrections."

3 **SECTION 25.**

4 Said title is further amended by striking Code Section 42-8-35.7, relating to drug and alcohol
 5 screening of probationers, and inserting in lieu thereof the following:

6 "42-8-35.7.

7 Unless the court has ordered more frequent such screenings, it shall be the duty of each
 8 probation/parole supervisor to administer or have administered a drug and alcohol
 9 screening not less than once every 60 days to any person who is placed on probation and
 10 who, as a condition of such probation, is required to undergo regular, random drug and
 11 alcohol screenings, provided that the drug and alcohol screenings required by this Code
 12 section shall be performed only to the extent that necessary funds therefor are appropriated
 13 in the state budget."

14 **SECTION 26.**

15 Said title is further amended by striking subsection (a) of Code Section 42-8-36, relating to
 16 a probationer's duties, and inserting in lieu thereof the following:

17 "(a)(1) Any other provision of this article to the contrary notwithstanding, it shall be the
 18 duty of a probationer, as a condition of probation, to keep his or her probation/parole
 19 supervisor informed as to his or her residence. Upon the recommendation of the
 20 probation/parole supervisor, the court may also require, as a condition of probation and
 21 under ~~such~~ any terms as the court deems advisable, that the probationer keep the
 22 probation/parole supervisor informed as to ~~his~~ the probationer's whereabouts. The failure
 23 of a probationer to report to his or her probation/parole supervisor as directed or a return
 24 of non est inventus or other return to a warrant, for the violation of the terms and
 25 conditions of probation, that the probationer cannot be found in the county that appears
 26 from the records of the probation/parole supervisor to be the probationer's county of
 27 residence shall automatically suspend the running of the probated sentence until the
 28 probationer shall personally report to the probation/parole supervisor, is taken into
 29 custody in this state, or is otherwise available to the court; and such period of time shall
 30 not be included in computing creditable time served on probation or as any part of the
 31 time that the probationer was sentenced to serve. The effective date of the tolling of the
 32 sentence shall be the date that the ~~officer~~ probation/parole supervisor returns the warrant
 33 showing non est inventus. Any officer authorized by law to issue or serve warrants may
 34 return the warrant for the absconded probationer showing non est inventus.

1 (2) In addition to the provisions of paragraph (1) of this subsection, if the
 2 probation/parole supervisor submits an affidavit to the court stating that a probationer has
 3 absconded and cannot be found, the running of the probated sentence shall be suspended
 4 effective on the date such affidavit is submitted to the court and continuing until the
 5 probationer shall personally report to the probation/parole supervisor, is taken into
 6 custody in this state, or is otherwise available to the court."

7 **SECTION 27.**

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

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

19 **SECTION 28.**

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

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

33 "(d) In cases where the probation is revoked in a county other than the county of original
 34 conviction, the clerk of court in the county revoking probation may record the order of
 35 revocation in the judge's minute docket, which recordation shall constitute sufficient

1 permanent record of the proceedings in that court. The clerk shall send one copy of the
 2 order revoking probation to ~~the department~~ corrections to serve as a temporary
 3 commitment and shall send the original order revoking probation and all other papers
 4 pertaining thereto to the county of original conviction to be filed with the original records.
 5 The clerk of court of the county of original conviction shall then issue a formal
 6 commitment to ~~the department~~ corrections."

7 **SECTION 29.**

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

11 "42-8-42.

12 ~~The department~~ Corrections may provide office space and clerical help wherever needed.

13 The counties of this state shall cooperate in this respect and, wherever possible, shall
 14 furnish office space if needed."

15 **SECTION 30.**

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

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

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

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

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

1 (2) The agency shall be responsible for coordinating the provisions of the cost of food
 2 or other necessities for the offender which the disabled person is not able to provide. The
 3 agency, with the approval of the court, shall determine a schedule which will provide the
 4 offender with certain free hours each week.

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

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

10 SECTION 31.

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

14 "42-8-80.

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

24 SECTION 32.

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

28 "42-8-82.

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

SECTION 33.

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

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

SECTION 34.

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

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

SECTION 35.

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

"42-8-116.

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

SECTION 37.

Said title is further amended by striking Code Section 42-8-153, relating to administrative sanctions as alternative to judicial modification or revocation of probation, and inserting in lieu thereof the following:

"42-8-153.

(a) The ~~department~~ division is authorized to establish by rules and regulations a system of administrative sanctions as an alternative to judicial modifications or revocations for probationers who violate the terms and conditions of the sentencing options system established under this article. The ~~department~~ division may not, however, sanction probationers for violations of special conditions of probation or general conditions of probation for which the sentencing judge has expressed an intention that such violations be heard by the court pursuant to Code Section 42-8-34.1.

(b) The ~~department~~ division shall only impose restrictions which are equal to or less restrictive than the initial sanction set by the sentencing judge.

(c) The administrative sanctions which may be imposed by the ~~department~~ division are as follows, from most restrictive to least restrictive:

- (1) Probation detention center or residential substance abuse treatment facility;
- (2) Probation boot camp;
- (3) Probation diversion center;
- (4) Intensive probation;
- (5) Options system day reporting center;
- (6) Electronic monitoring;
- (7) Community service; or
- (8) Probation supervision."

SECTION 38.

Said title is further amended by striking Code Section 42-8-155, relating to hearings regarding violations, and inserting in lieu thereof the following:

"42-8-155.

(a) If an options system probationer violates the conditions of probation, the ~~department~~ division may impose administrative sanctions as an alternative to judicial modification or revocation of probation.

(b) Upon issuance of a petition outlining the alleged probation violations, the chief probation officer, or his or her designee, may conduct a hearing to determine whether an options system probationer has violated a condition of probation. If the chief probation officer determines that the probationer has violated a condition of probation, the chief probation officer is authorized to impose sanctions consistent with paragraphs (4) through

1 (8) of subsection (c) of Code Section 42-8-153. The failure of an options system
 2 probationer to comply with a sanction imposed by the chief probation officer shall
 3 constitute a violation of probation.

4 (c)(1) Upon issuance of a petition outlining the alleged probation violations, the hearing
 5 officer may initiate an administrative proceeding to determine whether an options system
 6 probationer has violated a condition of probation. If the hearing officer determines by
 7 a preponderance of the evidence that the probationer has violated a condition of
 8 probation, the hearing officer may impose sanctions consistent with Code Section
 9 42-8-153.

10 (2) The administrative proceeding provided for under this subsection shall be
 11 commenced within 15 days; but not less than 48 hours after notice of the administrative
 12 proceeding has been served on the probationer. The administrative proceeding may be
 13 conducted electronically.

14 (d) The failure of a probationer to comply with the sanction or sanctions imposed by the
 15 chief probation officer or hearing officer shall constitute a violation of probation.

16 (e) An options system probationer may at any time waive a hearing and voluntarily accept
 17 the sanctions proposed by the ~~department~~ division."

18 **SECTION 39.**

19 Said title is further amended by striking Code Section 42-8-156, relating to finality of hearing
 20 officer's decision, and inserting in lieu thereof the following:

21 "42-8-156.

22 (a) The hearing officer's decision shall be final unless the options system probationer files
 23 an appeal in the sentencing court. Such appeal shall name the commissioner as defendant
 24 and shall be filed within 30 days of the issuance of the decision by the ~~department~~ division.

25 (b) This appeal shall be first reviewed by the judge upon the record. At the judge's
 26 discretion, a de novo hearing may be held on the decision. The filing of the appeal shall
 27 not stay the ~~department's~~ division's decision.

28 (c) Where the sentencing judge does not act on the appeal within 30 days of the date of the
 29 filing of the appeal, the ~~department's~~ division's decision shall be affirmed by operation of
 30 law."

31 **SECTION 40.**

32 Said title is further amended by striking Code Section 42-8-158, relating to application only
 33 in counties with certified options system day reporting center, and inserting in lieu thereof
 34 the following:

1 "42-8-158.

2 This article shall only apply in counties that have an options system day reporting center
3 certified by the ~~department~~ division."

4 **SECTION 41.**

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

7 "42-9-3.

8 As used in this chapter, the term:

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

10 (2) 'Division' means the division of probation/parole community based supervision.

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

13 **SECTION 42.**

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

17 "42-9-20.

18 (a) In all cases in which the chairman of the board or any other member designated by the
19 board has suspended the execution of a death sentence to enable the full board to consider
20 and pass on same, it shall be mandatory that the board act within a period not exceeding
21 90 days from the date of the suspension order. In the cases which the board has power to
22 consider, the board shall be charged with the duty of determining which inmates serving
23 sentences imposed by a court of this state may be released on pardon or parole and fixing
24 the time and conditions thereof. The board shall also be charged with the duty of
25 supervising all persons placed on parole, of determining violations thereof and of taking
26 action with reference thereto, of making ~~such~~ investigations as may be necessary, and of
27 aiding parolees or probationers in securing employment. It shall be the duty of the board
28 personally to study the cases of those inmates whom the board has power to consider so as
29 to determine their ultimate fitness for ~~such~~ relief as the board has power to grant. The
30 board by an affirmative vote of a majority of its members shall have the power to commute
31 a sentence of death to one of life imprisonment.

32 (b) With respect to inmates sentenced under split sentences entered on or after July 1,
33 2005, and all persons paroled or otherwise released by the board prior to completion of his
34 or her sentence on or after July 1, 2005, the board shall have no duty to supervise inmates
35 who have been paroled or otherwise released prior to completion of their sentence of

1 confinement. Supervision of inmates paroled, released, or released from split sentence
 2 confinement shall be through an increase in their period of probation, as provided in Code
 3 Section 17-10-1.3. Any reference elsewhere in this chapter to duties of the board with
 4 respect to supervision of parolees and other persons released from confinement shall not
 5 include inmates released from confinement on or after July 1, 2005."

6 SECTION 43.

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

10 "42-9-21.

11 (a) The board shall have the function and responsibility of supervising all persons placed
 12 on parole or other conditional release by the board prior to July 1, 2005. On and after July
 13 1, 2005, the division shall have the function and responsibility of supervising all persons
 14 placed on parole or other conditional release by the board.

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

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

24 SECTION 44.

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

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

34 (2) The board may require the payment of a parole supervision fee of at least \$10.00 per
 35 month as a condition of parole or other conditional release. The monthly amount shall

1 be set by rule of the board and shall be uniform state wide. The board may require or the
 2 parolee or person under conditional release may request that up to 24 months of the
 3 supervision fee be paid in advance of the time to be spent on parole or conditional
 4 release. In such cases, any advance payments are nonreimbursable in the event of parole
 5 or conditional release revocation or if parole or conditional release is otherwise
 6 terminated prior to the expiration of the sentence being served on parole or conditional
 7 release. ~~Such~~ The fees shall be collected by ~~the board to~~ a probation/parole supervisor
 8 and shall be paid into the general fund of the state treasury."

9 SECTION 45.

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

12 "42-9-44.

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

27 (b) Each parolee who does not have a high school diploma or a general educational
 28 development equivalency diploma (GED) shall be required as a condition of parole to
 29 obtain a high school diploma or general educational development equivalency diploma
 30 (GED) or to pursue a trade at a ~~vocational or technical school~~ college. Any such parolee
 31 who demonstrates to the satisfaction of the board an existing ability or skill which does in
 32 fact actually furnish the parolee a reliable, regular, and sufficient income shall not be
 33 subject to this provision. Any parolee who is determined by the ~~Department of Corrections~~
 34 division or the board to be incapable of completing such requirements shall only be
 35 required to attempt to improve ~~their~~ his or her basic educational skills. Failure of any
 36 parolee subject to this requirement to attend the necessary schools or courses or to make

1 reasonable progress toward fulfillment of such requirement shall be grounds for revocation
 2 of parole. The board shall establish regulations regarding reasonable progress as required
 3 by this subsection. This subsection shall apply to paroles granted on or after July 1, 1995."

4 SECTION 46.

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

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

11 SECTION 47.

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

15 "42-9-57.

16 Nothing contained in this chapter shall be construed as repealing any power given to any
 17 court of this state to place offenders on probation or to supervise the same nor any power
 18 of any probation agency set up in any county of the state in conjunction with the courts.
 19 The board shall be authorized to cooperate with any such agencies, ~~except that it and~~
 20 specifically with the division of probation/parole community based supervision for
 21 purposes of supervising parolees and persons released pursuant to conditional release. The
 22 board shall not assume or pay any financial obligations thereof. ~~The board shall also be~~
 23 ~~authorized to cooperate with the courts for the probation of offenders in those counties in~~
 24 ~~which there is no existing probation agency, when a court so requests~~ of other agencies but
 25 shall share appropriately in the financial obligation of the division of probation/parole
 26 community based supervision for purposes of supervision needs of the board."

27 SECTION 48.

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

31 "~~The Department of Corrections~~ division of probation/parole community based
 32 supervision and the State Board of Pardons and Paroles are authorized to require any
 33 nonindigent adult offender to pay a \$25.00 application fee when applying to transfer his

1 or her supervision from Georgia to any other state or territory pursuant to the provisions
2 of Articles 3 and 4 of this chapter."

3 **SECTION 49.**

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

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

16 **SECTION 50.**

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

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

26 **SECTION 51.**

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

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

- 32 (1) The other person is lawfully acting within the course and scope of employment; and
33 (2) The person has knowledge or reason to know that the other person is employed as:
34 (A) A peace officer as defined in paragraph (8) of Code Section 35-8-2;

1 (B) A probation/parole officer, or other employee with the power of arrest, by the
 2 Department of Corrections or the division of probation/parole community based
 3 supervision;

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

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

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

13 SECTION 52.

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

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

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

22 (2) Providing to a law enforcement officer, adult probation/parole supervisor or juvenile
 23 probation officer, prosecuting attorney, or judge any information relating to the
 24 commission or possible commission of an offense under the laws of this state or of the
 25 United States or a violation of conditions of bail, pretrial release, probation, or parole
 26 shall be guilty of the offense of a terroristic threat or act and, upon conviction thereof, shall
 27 be punished, for a terroristic threat, by imprisonment for not less than five nor more than
 28 ten years or by a fine of not less than \$50,000.00, or both, and, for a terroristic act, by
 29 imprisonment for not less than five nor more than 20 years or by a fine of not less than
 30 \$100,000.00, or both."

31 SECTION 53.

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

1 maximum shall be increased by the amount of time for which the period of
 2 post-incarceration probation is increased. Probation supervision shall not be required for
 3 defendants sentenced to probation while the defendant is in the legal custody of the
 4 Department of Corrections ~~or the State Board of Pardons and Paroles.~~

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

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

23 (4) In cases of imprisonment followed by probation, the sentence shall specifically
 24 provide that the period of probation shall not begin until the defendant has completed
 25 service of the confinement portion of the sentence or been released from confinement by
 26 the State Board of Pardons and Paroles as provided in Code Section 17-10-1.3. No With
 27 respect to a sentence entered prior to July 1, 2005, no revocation of any part of a probated
 28 sentence shall be effective while a defendant is in the legal custody of the State Board of
 29 Pardons and Paroles.

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

1 bodily injury or death, and, upon request of the victim or victims so notified, shall
 2 afford notice and an opportunity for hearing to the defendant and the prosecuting
 3 attorney.

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

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

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

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

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

29 SECTION 55.

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

32 "17-10-1.3.

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

35 (b) In any case where a judge on or after July 1, 2005, sentences a defendant to a split
 36 sentence, post-incarceration supervision of the defendant shall be conducted exclusively

1 by the division of probation/parole community based supervision and not by the State
2 Board of Pardons and Paroles, regardless of whether the defendant has served the full
3 period of incarceration ordered in the sentence or has been released prior to the full period
4 of incarceration by parole, conditional release, or other action of the State Board of Pardons
5 and Paroles.

6 (c) Any split sentence order entered on or after July 1, 2005, shall provide that the
7 post-incarceration period of probation ordered in the sentence shall be increased by an
8 amount of time equal to any amount of time by which the period of incarceration is
9 decreased by the State Board of Pardons and Paroles. Such increased portion of the period
10 of probation shall run concurrently with the period of time by which the period of
11 incarceration was decreased and shall commence upon the defendant's release from
12 incarceration. Any split sentence order entered on or after July 1, 2005, which by its terms
13 fails to so provide for the increased period of probation shall be deemed to so provide by
14 operation of law.

15 (d) In any case where a judge on or after July 1, 2005, sentences a defendant for a felony
16 offense to straight probation or to an alternative probation confinement facility, supervision
17 of the defendant shall be conducted exclusively by the division of probation/parole
18 community based supervision and not by the state-wide probation system.

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

21 **SECTION 56.**

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

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

1 be filed with the clerk of the superior court in which the sentence was imposed. Upon the
 2 filing of an application the clerk shall transmit the same to the three-judge panel created
 3 under this Code section within ten days of the date on which the application was filed. For
 4 such service, the clerk shall receive the fees prescribed in Code Section 15-6-77 from the
 5 funds of the county, except where the clerk is on a salary. It shall be the duty of the judge
 6 imposing the sentence and any probation/parole supervisor ~~officer~~ to transmit, within ten
 7 days of the filing of an application for review of a sentence, a copy of any presentence or
 8 postsentence report prepared by the probation/parole supervisor ~~officer~~, including the
 9 record of the defendant, to the three-judge panel."

10 SECTION 57.

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

14 "(c) When a defendant submits a request to the sentencing judge to be allowed to surrender
 15 voluntarily to a county jail or a correctional facility, the judge may consider the request and
 16 if, taking into the consideration the crime for which the defendant is being sentenced, the
 17 history of the defendant, and any other factors which may aid in the decision, the judge
 18 determines that the granting of the request will pose no threat to society, the defendant shall
 19 be remanded to the supervision of a probation/parole supervisor ~~officer~~ by the judge and
 20 ordered to surrender voluntarily to a county jail designated by the court or to a correctional
 21 institution as thereafter designated by the Department of Corrections. The surrender date
 22 shall be a date thereafter specified as provided in subsection (d) of this Code section. The
 23 sentence of any defendant who is released pursuant to this Code section shall not begin to
 24 run until such person surrenders to the facility designated by the court or by the ~~department~~
 25 Department of Corrections, provided that such person will receive credit toward his or her
 26 sentence for time spent in confinement awaiting trial as provided in Code Section
 27 17-10-11.

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

1 Subsistence and transportation expenses en route to the correctional institution shall be
2 borne by the defendant."

3 **SECTION 58.**

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

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

10 **SECTION 59.**

11 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
12 amended by striking subsection (a) of Code Section 19-7-52, relating to whom child support
13 payments are made, and inserting in lieu thereof the following:

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

20 **SECTION 60.**

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

23 "19-11-21.

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

1 enforcement of support in accordance with the provisions of the federal Social Security
2 Act."

3 **SECTION 61.**

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

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

17 **SECTION 62.**

18 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
19 amended by striking subsection (b) of Code Section 40-5-81, relating to attendance at driver
20 improvement programs, and inserting in lieu thereof the following:

21 "(b) Whenever any person is authorized or required to attend a driver improvement clinic
22 or DUI Alcohol or Drug Use Risk Reduction Program as a condition of any sentence
23 imposed under this title or any ordinance enacted pursuant to this title or as a condition of
24 the retention or restoration of the person's driving privilege, such person, in complying
25 with such condition, shall be authorized to attend any driver improvement clinic or DUI
26 Alcohol or Drug Use Risk Reduction Program certified under this article; and no judicial
27 officer, probation officer, probation/parole supervisor, law enforcement officer, or other
28 officer or employee of a court or person who owns, operates, or is employed by a private
29 company which has contracted to provide private probation services for misdemeanor cases
30 shall specify, directly or indirectly, a particular driver improvement clinic or DUI Alcohol
31 or Drug Use Risk Reduction Program which the person may or shall attend. This Code
32 section shall not prohibit any judicial officer, probation officer, probation/parole
33 supervisor, law enforcement officer, or other officer or employee of a court or owner,
34 operator, or employee of a private company which has contracted to provide probation
35 services for misdemeanor offenders from furnishing any person, upon request, the names

1 of certified driver improvement clinics or DUI Alcohol or Drug Use Risk Reduction
2 Programs."

3 SECTION 63.

4 Said title is further amended by striking subsection (d) of Code Section 40-5-83, relating to
5 establishment and approval of driving clinics and programs and restrictions, and inserting in
6 lieu thereof the following:

7 "(d) Notwithstanding the provisions of any law or rule or regulation which prohibits any
8 individual who is a probation officer or other official or employee of the probation division
9 of the Department of Corrections or a spouse of such individual from owning, operating,
10 instructing at, or being employed by a driver improvement clinic, any individual who is a
11 probation officer or other official or employee of the probation division of the Department
12 of Corrections or a spouse of such individual who owns, operates, instructs at, or is
13 employed by a driver improvement clinic on June 1, 1985, and who in all respects is and
14 remains qualified to own, operate, instruct at, or be employed by a driver improvement
15 clinic is expressly authorized to continue on and after June 1, 1985, to engage in such
16 activities. Any individual who is a probation/parole supervisor or other official or
17 employee of the division of probation/parole community based supervision or a spouse of
18 such individual who owns, operates, instructs at, or is employed by a driver improvement
19 clinic on June 1, 2005, and who in all respects is and remains qualified to own, operate,
20 instruct at, or be employed by a driver improvement clinic is expressly authorized to
21 continue on and after June 1, 2005, to engage in such activities. No person who owns,
22 operates, or is employed by a private company which has contracted to provide probation
23 services for misdemeanor cases shall be authorized to own, operate, be an instructor at, or
24 be employed by a driver improvement clinic or a DUI Alcohol or Drug Use Risk Reduction
25 Program."

26 SECTION 64.

27 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
28 is amended by striking paragraph (8) of Code Section 45-9-81, relating to definitions
29 concerning the Georgia State Indemnification Fund, and inserting in lieu thereof the
30 following:

31 "(8) 'Prison guard' means any person employed by the state or any political subdivision
32 thereof whose principal duties relate to the supervision and incarceration of persons
33 accused or convicted of the violation of the criminal laws of this state or any political
34 subdivision thereof. Such term shall also mean any probation/parole supervisor or parole
35 officer who is required to be certified under Chapter 8 of Title 35, the 'Georgia Peace

1 Officer Standards and Training Act,' and whose principal duties directly relate to the
2 supervision of adult probationers or adult parolees. Such term also means any person
3 employed by the state or any political subdivision thereof whose principal duties include
4 the supervision of youth who are charged with or adjudicated for an act which if
5 committed by adults would be considered a crime."

6 **SECTION 65.**

7 This Act shall become effective July 1, 2005, and shall apply with respect to sentences
8 entered on or after that date.

9 **SECTION 66.**

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