

House Bill 254

By: Representatives Knox of the 24th, Keen of the 179th, Ralston of the 7th, and Ehrhart of the 36th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to
2 general provisions of courts, so as to authorize the establishment of drugs courts divisions
3 within certain courts; to provide for assignment of certain cases to a drug court division; to
4 provide for jurisdiction; to provide for judges and their appointment, designation, and terms;
5 to provide for district attorneys, public defenders, a clerk, probation officers, and other
6 employees; to authorize agreements with other courts and agencies for the assignment of
7 personnel to such court; to authorize judges to complete a planned program of instruction;
8 to provide for powers and duties of the drug court division; to provide for expenses; to
9 provide for admissibility of certain matters in certain proceedings; to provide for access to
10 certain information and confidentiality; to provide for costs; to provide for related matters;
11 to repeal conflicting laws; and for other purposes.

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

13 **SECTION 1.**

14 Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general
15 provisions of courts, is amended by adding a new Code section to the end of the chapter to
16 read as follows:

17 "15-1-15.

18 (a)(1) Any court that has jurisdiction over any criminal case which arises from the use,
19 sale, possession, delivery, distribution, purchase, or manufacture of a controlled
20 substance, noncontrolled substance, dangerous drug, or other drug may establish a drug
21 court division to provide an alternative to the traditional judicial system for disposition
22 of such cases. When a case is filed which arises from the use, sale, possession, delivery,
23 distribution, purchase, or manufacture of a controlled substance, noncontrolled substance,
24 dangerous drug, or other drug or is ancillary to such conduct, the chief judge of the court
25 instituting the drug court division or an intake case manager designated by such chief
26 judge may assign the case to the drug court division. Each drug court division shall

1 establish conditions, protocol, and rules for referral of such cases to the drug court. The
2 drug court division shall combine judicial supervision, treatment of drug court division
3 participants, and drug testing.

4 (2) Each drug court division shall have the same jurisdiction as the court that established
5 the drug court division. Each court shall have the powers, rules of practice and procedure,
6 and selection, qualifications, and terms of judges of the court in which the drug court
7 originates and as duly adopted by the specific drug court division. The chief judge of the
8 court instituting the drug court division may designate one or more judges to sit as judges
9 of the drug court division for terms of up to two years. In addition, the chief judge may
10 designate one or more judges to sit as judges of the drug court division on a standby basis
11 for terms of up to two years. The chief judge of the court instituting the drug court
12 division may require the drug court judges to complete a planned program of instruction
13 in criminal law, substance abuse, treatment alternatives, psychology, family dynamics,
14 and working with diverse populations.

15 (3) The chief judge of the court instituting the drug court division may request the
16 prosecuting attorney for the jurisdiction to designate one or more prosecuting attorneys
17 to serve in the drug court division and may request the public defender, if any, to
18 designate one or more assistant public defenders to serve in the drug court division.

19 (4) The clerk of the court instituting the drug court division or such clerk's designee shall
20 serve as the clerk of the drug court division.

21 (5) The chief judge of the court instituting the drug court shall designate probation
22 officers and other employees of the court to perform duties for the drug court division.
23 Such employees shall perform duties as directed by the judges of the drug court division.

24 (6) The chief judge of the court instituting the drug court may enter into agreements with
25 other courts and agencies for the assignment of personnel from other courts and agencies
26 to the drug court division.

27 (7) Expenses for salaries, equipment, and supplies incurred in implementing this Code
28 section shall be paid from state funds appropriated for such purpose and from the funds
29 of the county or political subdivision implementing such drug court division.

30 (b) Upon the successful completion of the drug court division program, the case against
31 the drug court division participant may be dismissed or reduced or the sentence of the drug
32 court division participant may be reduced or modified. Successful completion of the drug
33 court division program by the drug court division participant shall be determined by the of
34 the judge of the drug court division.

35 (c) Any statement made by a drug court division participant as part of participation in such
36 court, or any report made by the staff of the court or program connected to the court,
37 regarding a participant's substance usage shall not be admissible as evidence against the

1 participant in any legal proceeding or prosecution; provided, however, if the participant
2 violates the conditions of his or her participation in the program or is terminated from the
3 drug court division, the reasons for the violation or termination may be considered in
4 sanctioning, sentencing, or otherwise disposing of the participant's case.

5 (d) Notwithstanding any provision of law to the contrary, drug court division staff shall
6 be provided, upon request, with access to all records relevant to the treatment of the drug
7 court division participant from any state or local government agency. All such records and
8 the contents thereof shall be treated as confidential, shall not be disclosed to any person
9 outside of the drug court division, and shall not be subject to Article 4 of Chapter 18 of
10 Title 50, relating to open records, or subject to subpoena, discovery, or introduction into
11 evidence in any civil or criminal proceeding. Such records and the contents thereof shall
12 be maintained by the drug court division and originating court in a confidential file not
13 available to the public.

14 (e) Any fees received by a drug court division from a drug court division participant as
15 payment for substance abuse treatment and services shall not be considered as court costs
16 or a fine."

17 **SECTION 2.**

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