

The House Committee on Judiciary Non-civil offers the following  
substitute to HB 254:

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 felony and misdemeanor cases to  
4 a drug court division; to provide for jurisdiction; to provide for judges and their appointment,  
5 designation, and terms; to provide for district attorneys, public defenders, a clerk, probation  
6 officers, and other employees; to authorize agreements with other courts and agencies for the  
7 assignment of personnel to such court; to authorize judges to complete a planned program  
8 of instruction; to provide for powers and duties of the drug court division; to provide for  
9 expenses; to provide for admissibility of certain matters in certain proceedings; to provide  
10 for access to certain information and confidentiality; to provide for costs; to provide for  
11 related matters; 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.

23 (2) In any case which arises from the use, sale, possession, delivery, distribution,  
24 purchase, or manufacture of a controlled substance, noncontrolled substance, dangerous  
25 drug, or other drug or is ancillary to such conduct, the court may assign the case to the  
26 drug court division:

1 (A) Prior to the entry of the sentence, if the prosecuting attorney consents;

2 (B) As part of a sentence in a case; or

3 (C) Upon consideration of a petition to revoke probation.

4 (3) Each drug court division shall adopt policies and procedures consistent with the  
5 Standards of Drug Courts adopted by the Judicial Council of Georgia, establish  
6 conditions, protocol, and rules for referral of such cases to the drug court. The drug court  
7 division shall combine judicial supervision, treatment of drug court division participants,  
8 and drug testing.

9 (4) Each drug court division shall have the same jurisdiction as the court that established  
10 the drug court division. The court instituting the drug court division may designate one  
11 or more judges to sit as judges of the drug court division. In addition, the court may  
12 designate one or more judges to sit as judges of the drug court division on a standby  
13 basis. The court instituting the drug court division shall require the drug court judges to  
14 complete a planned program of instruction in criminal law, substance abuse, treatment  
15 alternatives, psychology, family dynamics, and working with diverse populations.

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

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

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

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

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

31 (b) Upon the successful completion of the drug court division program, the case against  
32 the drug court division participant may be dismissed or reduced or the sentence of the drug  
33 court division participant may be reduced or modified. Successful completion of the drug  
34 court division program by the drug court division participant shall be determined by the  
35 judge of the drug court division. Any plea of guilty or nolo contendere entered pursuant to  
36 this Code section may not be withdrawn without the consent of the court.

(c) Any statement made by a drug court division participant as part of participation in such court, or any report made by the staff of the court or program connected to the court, regarding a participant's substance usage shall not be admissible as evidence against the participant in any legal proceeding or prosecution; provided, however, if the participant violates the conditions of his or her participation in the program or is terminated from the drug court division, the reasons for the violation or termination may be considered in sanctioning, sentencing, or otherwise disposing of the participant's case.

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

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

(f) The court may have the authority to accept grants and donations and other proceeds from outside sources for the purpose of supporting the drug court division. Any such grants, donations, or proceeds shall be retained by the drug court division for expenses."

## **SECTION 2.**

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