

House Bill 254 (COMMITTEE SUBSTITUTE)

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 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:

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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.

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

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

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

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

23 SECTION 2.

24 All laws and parts of laws in conflict with this Act are repealed.