

## House Resolution 490

By: Representatives Buckner of the 76<sup>th</sup> and Reece of the 11<sup>th</sup>

## A RESOLUTION

1 Creating the Joint House-Senate Study Committee on the Restructuring of Georgia's  
2 Criminal Penalties; and for other purposes.

3 WHEREAS, the Constitution of the United States guarantees the right to legal representation  
4 for any person charged with a crime; and

5 WHEREAS, the right to counsel guaranteed by the Constitution has been shaped and defined  
6 by decisions of the Supreme Court of the United States; and

7 WHEREAS, the Supreme Court of the United States has ruled that states must secure the  
8 right to counsel for those individuals who cannot afford to provide counsel for themselves  
9 by providing counsel for them paid for out of the coffers of the state; and

10 WHEREAS, the Supreme Court of the United States has also ruled that the right to counsel  
11 is guaranteed to any person charged with a crime that carries with it the threat of  
12 incarceration; and

13 WHEREAS, the state must provide counsel for any persons charged with a crime which  
14 carries the threat of incarceration who cannot afford to pay their own counsel; and

15 WHEREAS, in the State of Georgia, the financial burden of providing counsel for those  
16 unable to provide it for themselves is shared by the state with local governments; and

17 WHEREAS, in order to reduce the financial burden, there is a need to consider ways to  
18 reduce demand for indigent defense services; and

19 WHEREAS, the demand for the resources is directly proportionate to the number of offenses  
20 which carry the threat of incarceration.

1 NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF  
2 GEORGIA that there is created the Joint House-Senate Study Committee on the  
3 Restructuring of Georgia's Criminal Penalties. The committee shall consist of the following  
4 members: the Attorney General of the State of Georgia; three members appointed by the  
5 Governor; three members appointed by the Chief Justice of the Supreme Court of Georgia;  
6 three members appointed by the Speaker of the House; three members appointed by the  
7 Senate Committee on Assignments; and the executive director of the Association County  
8 Commissioners of Georgia or his or her designee. The committee shall examine the laws  
9 specifying criminal offenses and the punishments therefor and shall seek ways to more  
10 efficiently and effectively apply the option of incarceration. The goal of the committee is to  
11 find ways to balance the use of the threat of incarceration so as to maintain sufficient  
12 deterrence from that threat without implicating the right to counsel for so many offenders as  
13 to drain the resources of the state and counties in their efforts to administer justice.

14 BE IT FURTHER RESOLVED that the committee shall undertake a study of the conditions,  
15 needs, issues, and problems mentioned above or related thereto and recommend any action  
16 or legislation the committee deems necessary or appropriate. The committee may conduct  
17 such meetings at such places and at such times as it may deem necessary or convenient to  
18 enable it to exercise fully and effectively its powers, perform its duties, and accomplish the  
19 objectives and purposes of this resolution. The legislative members of the committee shall  
20 receive the allowance provided for in Code Section 28-1-8 of the Official Code of Georgia  
21 Annotated. Citizen members shall receive a daily expense allowance in the amount specified  
22 in subsection (b) of Code Section 45-7-21 of the Official Code of Georgia Annotated as well  
23 as the mileage or transportation allowance authorized for state employees. Any member who  
24 is a public official or employee other than a member of the General Assembly shall not  
25 receive a daily expense allowance but may be reimbursed for actual expenses by his or her  
26 public employer. All funds necessary to carry out the provisions of this resolution shall come  
27 from funds appropriated to the House of Representatives and the Senate. The expenses and  
28 allowances authorized by this resolution shall not be received by any member of the  
29 committee for more than five days unless additional days are authorized. In the event the  
30 committee makes report of its findings and recommendations, with suggestions for proposed  
31 legislation, if any, such report shall be made on or before December 1, 2006. The committee  
32 shall stand abolished on December 1, 2006.