

## SENATE SUBSTITUTE TO HB 254

**AS PASSED SENATE**

## 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 relative to courts, so as to establish a drug court division and create an  
 3 alternative system for storing copies of records for courts; to authorize the clerk of each  
 4 superior court, state court, probate court, magistrate court, juvenile court, or municipal court  
 5 to create and maintain digital copies of records, pleadings, orders, writs, process, or other  
 6 documents submitted to or issued by the court in any criminal, quasi-criminal, juvenile, or  
 7 civil proceeding or in any proceeding involving the enforcement of ordinances of local  
 8 governments; to provide for requirements, practices, and procedures related to the digital  
 9 storage and retrieval of such records; to provide for the destruction of the original copies of  
 10 such documents; to provide for the payment of costs and expenses; to provide for exceptions;  
 11 to provide for the alternative nature of the authority granted by this method of records  
 12 management; to authorize the establishment of drug courts divisions within certain courts;  
 13 to provide for assignment of certain felony and misdemeanor cases to a drug court division;  
 14 to provide for jurisdiction; to provide for judges and their appointment, designation, and  
 15 terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other  
 16 employees; to authorize agreements with other courts and agencies for the assignment of  
 17 personnel to such court; to authorize judges to complete a planned program of instruction;  
 18 to provide for powers and duties of the drug court division; to provide for expenses; to  
 19 provide for admissibility of certain matters in certain proceedings; to provide for access to  
 20 certain information and confidentiality; to provide for costs; to provide for related matters;  
 21 to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

23 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking  
 24 Code Section 15-1-10, relating to removal of court records and storage thereof, and inserting  
 25 in its place the following:  
 26

1 "15-1-10.

2 (a) No records or papers of any court shall be removed out of the county, except in cases  
3 of invasion whereby the same may be endangered, or by order of the court, or as otherwise  
4 provided in this Code section.

5 (b) Notwithstanding any other provision of this Code section, such records may be stored  
6 in accordance with the provisions of subsection (b) of Code Section 15-6-86 or  
7 subsection (c) of this Code section.

8 (c) With the prior written consent of the governing authority of the county or municipality  
9 and the prior written consent of the chief judge, judge of the probate court, or chief  
10 magistrate of the affected court, the clerk of each superior court, state court, probate court,  
11 magistrate court, juvenile court, or municipal court in this state is authorized, but not  
12 required, to create and maintain digital copies of records, pleadings, orders, writs, process,  
13 and other documents submitted to or issued by the court in criminal, quasi-criminal,  
14 juvenile, or civil proceedings or in any proceedings involving the enforcement of  
15 ordinances of local governments. All digital copies created pursuant to this subsection shall  
16 be accurate copies of the original documents and shall be stored and indexed in such  
17 manner as to be readily retrievable in the office of the clerk during normal business hours.  
18 It shall be the duty of the clerk to provide and maintain software and computers, readers,  
19 printers, and other necessary equipment in sufficient numbers to permit the retrieval,  
20 duplication, and printing of such digitally stored documents in a timely fashion when  
21 copies are requested. A copy of such digitally stored document retrieved by the clerk shall  
22 be admissible in all courts in the same manner as the original document. If a backup copy  
23 is created pursuant to the process prescribed by subsections (b), (c), and (d) of Code  
24 Section 15-6-62, the clerk is authorized to destroy the original document. This subsection  
25 shall not apply to documents or records which have been ordered sealed by the court nor  
26 to documents which are placed in evidence in a proceeding. The costs of creating and  
27 storing digital copies of documents and providing the necessary software and equipment  
28 to retrieve and reproduce such documents shall be paid from funds available for the  
29 operation of the court. The provisions of this subsection shall constitute an additional and  
30 alternative method of records management and shall not supersede or repeal Code Section  
31 15-6-62, 15-6-62.1, 15-6-86, or 15-6-87."

## 32 SECTION 2.

33 Said chapter is further amended by adding a new Code section to the end of the chapter to  
34 read as follows:

1 "15-1-15.

2 (a)(1) Any court that has jurisdiction over any criminal case which arises from the use,  
3 sale, possession, delivery, distribution, purchase, or manufacture of a controlled  
4 substance, noncontrolled substance, dangerous drug, or other drug may establish a drug  
5 court division to provide an alternative to the traditional judicial system for disposition  
6 of such cases.

7 (2) In any case which arises from the use, addiction, dependency, sale, possession,  
8 delivery, distribution, purchase, or manufacture of a controlled substance, noncontrolled  
9 substance, dangerous drug, other drug, or is ancillary to such conduct and the defendant  
10 meets the eligibility criteria for the drug court division, the court may assign the case to  
11 the drug court division:

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

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

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

15 (3) Each drug court division shall establish a planning group to develop a work plan. The  
16 planning group shall include the judges, prosecuting attorneys, public defenders,  
17 probation officers, and persons having expertise in the field of substance abuse. The work  
18 plan shall address the operational, coordination, resource, information management, and  
19 evaluation needs of the drug court division. The work plan shall include eligibility criteria  
20 for the drug court division. The drug court division shall combine judicial supervision,  
21 treatment of drug court division participants, and drug testing.

22 (4) The Judicial Council of Georgia and The Council of Superior Court Judges of  
23 Georgia shall adopt standards for the drug court divisions. The Judicial Council of  
24 Georgia standards and The Council of Superior Court Judges of Georgia standards shall  
25 be consistent with each other. Each drug court division shall adopt standards that are  
26 consistent with the standards of the Judicial Council of Georgia and the standards of The  
27 Council of Superior Court Judges. The standards are to serve as a flexible framework for  
28 developing effective drug court divisions and to provide a structure for conducting  
29 research and evaluation for program accountability. The standards are not intended to be  
30 a certification or regulatory checklist.

31 (5) Each drug court division shall have the same jurisdiction as the court that established  
32 the drug court division. The court instituting the drug court division may designate one  
33 or more judges to sit as judges of the drug court division. In addition, the court may  
34 designate one or more judges to sit as judges of the drug court division on a standby  
35 basis. The court instituting the drug court division shall require the drug court judges to  
36 complete a planned program of instruction in criminal law, substance abuse, treatment  
37 alternatives, psychology, family dynamics, and working with diverse populations.

1 (6) The court instituting the drug court division may request the prosecuting attorney for  
2 the jurisdiction to designate one or more prosecuting attorneys to serve in the drug court  
3 division and may request the public defender, if any, to designate one or more assistant  
4 public defenders to serve in the drug court division.

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

7 (8) The court instituting the drug court division may request probation officers and other  
8 employees of the court to perform duties for the drug court division. Such employees  
9 shall perform duties as directed by the judges of the drug court division.

10 (9) The court instituting the drug court division may enter into agreements with other  
11 courts and agencies for the assignment of personnel from other courts and agencies to the  
12 drug court division.

13 (10) Expenses for salaries, equipment, services, and supplies incurred in implementing  
14 this Code section may be paid from state funds, funds of the county or political  
15 subdivision implementing such drug court division, federal grant funds, and funds from  
16 private donations.

17 (b)(1) Each drug court division shall establish criteria which define the successful  
18 completion of the drug court division program.

19 (2) If the drug court division participant successfully completes the drug court division  
20 program prior to the entry of judgment, the case against the drug court division  
21 participant may be dismissed by the prosecuting attorney.

22 (3) If the drug court division participant successfully completes the drug court division  
23 program as part of a sentence imposed by the court, the sentence of the drug court  
24 division participant may be reduced or modified.

25 (4) Any plea of guilty or nolo contendere entered pursuant to this Code section may not  
26 be withdrawn without the consent of the court.

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

34 (d) Nothing contained in this Code section shall be construed to permit a judge to impose,  
35 modify, or reduce a sentence below the minimum sentence required by law.

36 (e) Notwithstanding any provision of law to the contrary, drug court division staff shall be  
37 provided, upon request, with access to all records relevant to the treatment of the drug court

1 division participant from any state or local government agency. All such records and the  
2 contents thereof shall be treated as confidential, shall not be disclosed to any person outside  
3 of the drug court division, and shall not be subject to Article 4 of Chapter 18 of Title 50,  
4 relating to open records, or subject to subpoena, discovery, or introduction into evidence  
5 in any civil or criminal proceeding. Such records and the contents thereof shall be  
6 maintained by the drug court division and originating court in a confidential file not  
7 available to the public.

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

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

### 14 **SECTION 3.**

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