

House Bill 65

By: Representative Powell of the 29th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 42 of the Official Code of Georgia Annotated, relating to penal institutions,
2 so as to create the Department of Probation/Parole Community Based Supervision; to provide
3 for the responsibilities of the department with respect to supervision of probationers and
4 parolees; to transfer responsibility of certain functions of probation and parole supervision
5 to the department; to provide for the selection, service, and powers and duties of the director
6 and employees of the department; to provide for rules and regulations and forms; to provide
7 for administration; to authorize appropriation of funds; to provide for transfer of prior
8 appropriations; to provide for transfer of personnel, equipment, and facilities; to amend
9 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, so as to
10 correct cross-references; to amend Title 17 of the Official Code of Georgia Annotated,
11 relating to criminal procedure, so as to change provisions relating to imposition and service
12 of split sentences; to provide for sentencing orders and their terms and effect; to provide that
13 where a person is sentenced to a term of imprisonment followed by a period of probation and
14 the person is paroled or released prior to service of the full period of imprisonment, the
15 person shall be subject to an increased period of probation and probation supervision but
16 shall not be subject to supervision by the State Board of Pardons and Paroles; to make
17 corresponding changes with respect to the jurisdiction and authority of the State Board of
18 Pardons and Paroles; to amend Titles 19, 40, and 45 of the Official Code of Georgia
19 Annotated, relating to domestic relations, motor vehicles and traffic, and public officers and
20 employees, respectively, so as to provide for certain changes in the administrative
21 organization of the Department of Corrections and the State Board of Pardons and Paroles
22 and to provide for conforming amendments; to provide for related matters; to provide for an
23 effective date and applicability; to repeal conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1 attached to corrections for administrative purposes only, as provided in Code Section
2 50-4-3.

3 (b) The director shall receive an annual salary to be set by the Governor which shall be his
4 or her total compensation for services as director. The director shall be reimbursed for all
5 actual and necessary expenses incurred by him or her in carrying out his or her official
6 duties.

7 (c) The duties of the department shall be performed by that department and not by any
8 other agency of state government, and the department shall not perform the duties of any
9 other agency of state government. The position of director of the department shall be a
10 separate and distinct position from any other position in state government. The duties of
11 the director shall be performed by the director and not by any other officer of state
12 government, and the director shall not perform the duties of any other officer of state
13 government.

14 42-14-4.

15 (a) The director shall establish units within the department as he or she deems proper for
16 its administration and shall designate persons to be assistant directors of each unit and to
17 exercise authority as he or she may delegate to them in writing.

18 (b) The director shall have the authority to employ as many persons as he or she deems
19 necessary for the administration of the department and for the discharge of the duties of his
20 or her office. The director shall issue all necessary directions, instructions, orders, and
21 rules applicable to employees of the department. The director shall have authority, as the
22 director deems proper, to employ, assign, compensate, and discharge employees of the
23 department within the limitations of the department's appropriation and the restrictions set
24 forth by law.

25 (c) All employees of the department shall be compensated upon a fixed salary basis, and
26 no person shall be compensated for services to the department on a commission or
27 contingent fee basis.

28 (d) Neither the director nor any officer or employee of the department shall be given or
29 receive any fee, compensation, loan, gift, or other thing of value in addition to the
30 compensation and expense allowance provided by law for any service or pretended service
31 either rendered or to be rendered as director or as an officer or employee of the department.

32 42-14-5.

33 (a) The director shall have the power to make and publish reasonable rules and regulations
34 not inconsistent with this title or other laws or with the Constitution of this state or of the

1 United States for the administration of this chapter or any law which it is his or her duty
2 to administer.

3 (b) The director may prescribe forms as he or she deems necessary for the administration
4 and enforcement of this chapter and Chapters 8 and 9 of this title or any law which it is his
5 or her duty to administer.

6 (c) The following rules and regulations shall remain of full force and effect as rules and
7 regulations of the department until amended, repealed, or superseded by rules or
8 regulations adopted by the director of the department:

9 (1) All rules and regulations previously adopted by the Advisory Council for Probation
10 which relate to functions transferred under this chapter from the state-wide probation
11 system to the department;

12 (2) All rules and regulations previously adopted by corrections which relate to functions
13 transferred under this chapter from corrections to the department; and

14 (3) All rules and regulations previously adopted by the board which relate to functions
15 transferred under this chapter from the board to the department.

16 42-14-6.

17 (a) Appropriations to corrections and the board for functions transferred to the department
18 pursuant to this chapter may be transferred to the department as provided for in Code
19 Section 45-12-90. Personnel, equipment, and facilities previously employed by corrections
20 and the board for transferred functions shall likewise be transferred to the department. Any
21 disagreement as to any of the transfers shall be resolved by the Governor.

22 (b) The enactment of this chapter and the Act by which it is enacted shall not affect or
23 abate the status of a probation revocation or parole revocation which occurred prior to
24 July 1, 2007."

25 **SECTION 2.**

26 Said title is further amended by revising Code Section 42-1-10, relating to preliminary urine
27 screen drug tests, as follows:

28 "42-1-10.

29 (a) Any probation/parole supervisor, probation officer, ~~parole officer~~, or other official or
30 employee of the Department of Corrections or the Department of Probation/Parole
31 Community Based Supervision who supervises any person covered under the provisions
32 of paragraphs (1) through (7) of this subsection shall be exempt from the provisions of
33 Chapter 22 of Title 31 for the limited purposes of administering a preliminary urine screen
34 drug test to any person who is:

35 (1) Incarcerated;

- 1 (2) Released as a condition of probation for a felony or misdemeanor;
 2 (3) Released as a condition of conditional release;
 3 (4) Released as a condition of parole;
 4 (5) Released as a condition of provisional release;
 5 (6) Released as a condition of pretrial release; or
 6 (7) Released as a condition of control release.
- 7 (b) The Department of Corrections, the Department of Probation/Parole Community Based
 8 Supervision, and the State Board of Pardons and Paroles shall develop a procedure for the
 9 performance of preliminary urine screen drug tests in accordance with the manufacturer's
 10 standards for certification. Probation officers, ~~parole officers~~ probation/ parole supervisors,
 11 or other officials or employees of the Department of Corrections or the Department of
 12 Probation/Parole Community Based Supervision who are supervisors of any person
 13 covered under paragraphs (1) through (7) of subsection (a) of this Code section shall be
 14 authorized to perform preliminary urine screen drug tests in accordance with such
 15 procedure. Such procedure shall include instructions as to a confirmatory test by a licensed
 16 clinical laboratory where necessary."

17 SECTION 3.

18 Said title is further amended by revising Code Section 42-8-2, relating to the Advisory
 19 Council for Probation's duties and responsibilities, as follows:

20 "42-8-2.

21 (a) As used in this Code section, the term:

22 (1) 'Board' means the Board of Corrections.

23 (2) 'Corrections' means the Department of Corrections.

24 (3) 'Department' means the Department of Probation/Parole Community Based
 25 Supervision.

26 (b) The Advisory Council for Probation shall meet, consult, and advise with the ~~Board of~~
 27 Corrections board, the department, and the ~~Department of Corrections~~ corrections on
 28 questions and matters of mutual concern and interest relative to policy, personnel, and
 29 budget which pertain to probationary activities, powers, duties, and responsibilities of the
 30 board, ~~and the department, and corrections.~~ The advisory council shall institute such
 31 studies and surveys and shall make such recommendations to the board, corrections, and
 32 the department as the council deems wise and necessary and which, in the opinion of the
 33 council, will improve the effectiveness and efficiency of probation services rendered
 34 throughout the state. No change in existing policy of the board, corrections, or the
 35 department relative to probation, if the magnitude of the change will result in a significant
 36 impact upon state-wide probationary services, or any such new policy, shall be instituted

1 by the board, corrections, or the department without opportunity being afforded to the
 2 advisory council to advise and consult with the board, corrections, or the department on the
 3 proposed changes. However, the recommendations of the advisory council shall be
 4 advisory only and shall not bind the board, corrections, or the department. The board,
 5 corrections, the department, and the council shall meet periodically throughout each year
 6 for the purpose of improving the administration, efficiency, and effectiveness of probation
 7 services."

8 SECTION 4.

9 Said title is further amended by revising Code Section 42-8-21, relating to definitions in the
 10 "State-wide Probation Act," as follows:

11 "42-8-21.

12 As used in this article, the term:

13 (1) 'Board' means the Board of Corrections.

14 (2) 'Commissioner' means the commissioner of corrections.

15 (3) 'Corrections' means the Department of Corrections.

16 ~~(3)~~(4) 'Department' means the Department of ~~Corrections~~ Probation/Parole Community
 17 Based Supervision.

18 (5) 'Split sentence' means any felony sentence that includes a term of imprisonment
 19 followed by a term of probation."

20 SECTION 5.

21 Said title is further amended by revising Code Section 42-8-22, relating to creation and
 22 administration of the state-wide probation system, as follows:

23 "42-8-22.

24 There is created a state-wide probation system for felony offenders to be administered by
 25 the Department of ~~Corrections~~ Probation/Parole Community Based Supervision. The
 26 probation system shall not be administered as part of the duties and activities of the State
 27 Board of Pardons and Paroles; but with respect to a split sentence imposed on or after July
 28 1, 2007, the department shall have jurisdiction over any increased period of probation
 29 resulting from a release of the defendant by the State Board of Pardons and Paroles as
 30 provided for in Code Section 17-10-1.3. Separate files and records shall be kept with
 31 relation to the system."

32 SECTION 6.

33 Said title is further amended by revising Code Section 42-8-24, relating to the general duties
 34 of the department and rules and regulations, as follows:

1 "42-8-24.

2 It shall be the duty of the department to supervise and direct the work of the
3 probation/parole supervisors provided for in Code Section 42-8-25 and to keep accurate
4 files and records on all probation cases, split sentence cases, parole cases, persons released
5 pursuant to Code Section 17-10-1, and persons on probation under supervision. It shall be
6 the duty of the board to promulgate rules and regulations necessary to effectuate the
7 purposes of this chapter."

8 **SECTION 7.**

9 Said title is further amended by revising Code Section 42-8-25, relating to the employment
10 of probation supervisors and assignment to circuits, as follows:

11 "42-8-25.

12 The department shall employ probation/parole supervisors. The department may assign
13 one supervisor to each judicial circuit in this state or, for purposes of assignment, may
14 consolidate two or more judicial circuits and assign one supervisor thereto. In the event
15 the department determines that more than one supervisor is needed for a particular circuit,
16 an additional supervisor or additional supervisors may be assigned to the circuit. The
17 department is authorized to direct any probation/parole supervisor to assist any other
18 probation/parole supervisor wherever assigned. In the event that more than one supervisor
19 is assigned to the same office or to the same division within a particular judicial circuit, the
20 department shall designate one of the supervisors to be in charge."

21 **SECTION 8.**

22 Said title is further amended by revising Code Section 42-8-26, relating to the qualifications
23 of probation supervisors, compensation, expenses, conflicts of interest, and bonds, as
24 follows:

25 "42-8-26.

26 (a) In order for a person to hold the office of probation/parole supervisor, he or she must
27 be at least 21 years of age at the time of appointment and must have completed a standard
28 two-year college course, provided that any person who is employed as a probation
29 supervisor on or before July 1, 1972, shall not be required to meet the educational
30 requirements specified in this Code section, nor shall he or she be prejudiced in any way
31 for not possessing the requirements. The qualifications provided in this Code section are
32 the minimum qualifications, and the department is authorized to prescribe such additional
33 and higher educational qualifications from time to time as it deems desirable; but not to
34 exceed a four-year standard college course.

1 (b) The compensation of the probation/parole supervisors shall be set by the State
 2 Personnel Board and the State Merit System of Personnel Administration. Probation/parole
 3 supervisors shall also be allowed travel and other expenses as are other state employees.

4 (c)(1) No supervisor shall engage in any other employment, business, or activities which
 5 interfere or conflict with his or her duties and responsibilities as probation/parole
 6 supervisor.

7 (2) No supervisor shall own, operate, have any financial interest in, be an instructor at,
 8 or be employed by any private entity which provides drug or alcohol education services
 9 or offers a DUI Alcohol or Drug Use Risk Reduction Program certified by the
 10 Department of Driver Services.

11 (3) No supervisor shall specify, directly or indirectly, a particular DUI Alcohol or Drug
 12 Use Risk Reduction Program which a probationer may or shall attend. This paragraph
 13 shall not prohibit any supervisor from furnishing any probationer, upon request, the
 14 names of certified DUI Alcohol or Drug Use Risk Reduction Programs. Any supervisor
 15 violating this paragraph shall be guilty of a misdemeanor.

16 (d) Each probation/parole supervisor shall give bond in such amount as may be fixed by
 17 the department payable to the department for the use of the person or persons damaged by
 18 his or her misfeasance or malfeasance and conditioned on the faithful performance of his
 19 or her duties. The cost of the bond shall be paid by the department; provided, however,
 20 that the bond may be procured, either by the department or by the Department of
 21 Administrative Services, under a master policy or on a group blanket coverage basis, where
 22 only the number of positions in each judicial circuit and the amount of coverage for each
 23 position are listed in a schedule attached to the bond; and in such case each individual shall
 24 be fully bonded and bound as principal, together with the surety, by virtue of his or her
 25 holding the position or performing the duties of probation/parole supervisor in the circuit
 26 or circuits, and his or her individual signature shall not be necessary for such bond to be
 27 valid in accordance with all the laws of this state. The bond or bonds shall be made
 28 payable to the department."

29 SECTION 9.

30 Said title is further amended by revising Code Section 42-8-27, relating to the duties of
 31 probation supervisors, as follows:

32 "42-8-27.

33 The probation/parole supervisor shall supervise and counsel probationers in the judicial
 34 circuit to which he or she is assigned. Each supervisor shall perform the duties prescribed
 35 in this chapter and ~~such~~ other duties as are prescribed by the department and shall keep
 36 ~~such~~ records and files and make ~~such~~ any reports as are required of him or her."

1 document or evaluation will be the case history form and the criminal history sheets from
 2 the Federal Bureau of Investigation or the Georgia Crime Information Center, if available,
 3 unless any ~~such~~ of this information has previously been sent to ~~the department~~ corrections
 4 pursuant to Code Section 42-5-50. A copy of these same documents shall be made
 5 available for the State Board of Pardons and Paroles. A copy of one or more of these
 6 documents, based on need, may be forwarded to another institution to which the defendant
 7 may be committed.

8 (b) The prison or institution receiving these documents shall maintain the confidentiality
 9 of the documents and the information contained therein and shall not send them or release
 10 them or reveal them to any other person, institution, or agency without the express consent
 11 of the ~~probation~~ unit which originated or accumulated the documents."

12 SECTION 13.

13 Said title is further amended by revising Code Section 42-8-30, relating to supervision of
 14 juvenile offenders by probation supervisors, as follows:

15 "42-8-30.

16 In the counties where no juvenile probation system exists, juvenile offenders, upon
 17 direction of the court, shall be supervised by probation/parole supervisors. Other than in
 18 this respect, nothing in this article shall be construed to change or modify any law relative
 19 to probation as administered by any juvenile court in this state."

20 SECTION 14.

21 Said title is further amended by revising Code Section 42-8-31, relating to collection and
 22 disbursement of funds by probation supervisors, record keeping, and bank accounts, as
 23 follows:

24 "42-8-31.

25 No probation/parole supervisor shall collect or disburse any funds whatsoever, except by
 26 written order of the court; and it shall be the duty of the supervisor to transmit a copy of
 27 the order to the department not later than 15 days after it has been issued by the court.
 28 Every supervisor who collects or disburses any funds whatsoever shall faithfully keep the
 29 records of accounts as are required by the department, which records shall be subject to
 30 inspection by the department at any time. In every instance where a bank account is
 31 required, it shall be kept in the name of the 'State Probation Office.'"

1 supervisor's recommendation; and it shall be the duty of the supervisor to carry out the
2 directive of the court.

3 (c) Subject to the provisions of subsection (a) of Code Section 17-10-1 and subsection (f)
4 of Code Section 17-10-3, if it appears to the court upon a hearing of the matter that the
5 defendant is not likely to engage in a criminal course of conduct and that the ends of justice
6 and the welfare of society do not require that the defendant shall presently suffer the
7 penalty imposed by law, the court in its discretion shall impose sentence upon the
8 defendant but may stay and suspend the execution of the sentence or any portion thereof
9 or may place ~~him~~ the defendant on probation under the supervision and control of the
10 probation/parole supervisor for the duration of ~~such probation~~ the sentence. The period of
11 probation or suspension shall not exceed the maximum sentence of confinement which
12 could be imposed on the defendant.

13 (d)(1) In every case that a court of this state or any other state sentences a defendant to
14 probation or any pretrial release or diversion program under the supervision of ~~the~~
15 department corrections, in addition to any fine or order of restitution imposed by the
16 court, there shall be imposed a probation fee as a condition of probation, release, or
17 diversion in the amount equivalent to \$23.00 per each month under supervision, and in
18 addition, a one-time fee of \$50.00 where such defendant was convicted of any felony.
19 The probation fee may be waived or amended after administrative process by ~~the~~
20 department corrections and approval of the court, or upon determination by the court, as
21 to the undue hardship, inability to pay, or any other extenuating factors which prohibit
22 collection of the fee; provided, however, that the imposition of sanctions for failure to pay
23 fees shall be within the discretion of the court through judicial process or hearings.
24 Probation fees shall be waived on probationers incarcerated or detained in a ~~departmental~~
25 corrections or other confinement facility which prohibits employment for wages. All
26 probation fees collected by the department shall be paid into the general fund of the state
27 treasury, except as provided in subsection (f) of Code Section 17-15-13, relating to sums
28 to be paid into the Georgia Crime Victims Emergency Fund. Any fees collected by the
29 court under this paragraph shall be remitted not later than the last day of the month after
30 such fee is collected to the Georgia Superior Court Clerks' Cooperative Authority for
31 deposit into the general fund of the state treasury.

32 (2) In addition to any other provision of law, any person convicted of a violation of Code
33 Section 40-6-391 or subsection (b) of Code Section 16-13-2 who is sentenced to
34 probation or a suspended sentence by a municipal, magistrate, probate, recorder's,
35 mayor's, state, or superior court shall also be required by the court to pay a one-time fee
36 of \$25.00. The clerk of court, or if there is no clerk the person designated to collect fines,
37 fees, and forfeitures for such court, shall collect such fee and remit the same not later than

1 the last day of the month after such fee is collected to the Georgia Superior Court Clerks'
2 Cooperative Authority for deposit into the general fund of the state treasury."

3 SECTION 18.

4 Said title is further amended by revising subsection (a) of Code Section 42-8-34.2, relating
5 to a defendant's delinquent payment of fines, costs, or restitution or reparation and costs of
6 garnishment, as follows:

7 "(a) In the event that a defendant is delinquent in the payment of fines, costs, or restitution
8 or reparation, as was ordered by the court as a condition of probation, the defendant's
9 probation/parole supervisor ~~officer~~ is authorized, but not required, to execute a sworn
10 affidavit wherein the amount of arrearage is set out. In addition, the affidavit shall contain
11 a succinct statement as to what efforts the department has made in trying to collect the
12 delinquent amount. The affidavit shall then be submitted to the sentencing court for
13 approval. Upon signature and approval of the court, said arrearage shall then be collectable
14 through issuance of a writ of fieri facias by the clerk of the sentencing court; and the
15 department may enforce such collection through any judicial or other process or procedure
16 which may be used by the holder of a writ of execution arising from a civil action."

17 SECTION 19.

18 Said title is further amended by revising subsection (a) of Code Section 42-8-35, relating to
19 terms and conditions of probation, as follows:

20 "(a) The court shall determine the terms and conditions of probation and may provide that
21 the probationer shall:

- 22 (1) Avoid injurious and vicious habits;
- 23 (2) Avoid persons or places of disreputable or harmful character;
- 24 (3) Report to the probation/parole supervisor as directed;
- 25 (4) Permit the supervisor to visit the probationer at the probationer's home or elsewhere;
- 26 (5) Work faithfully at suitable employment insofar as may be possible;
- 27 (6) Remain within a specified location; provided, however, that the court shall not banish
28 a probationer to any area within the state:

29 (A) That does not consist of at least one entire judicial circuit as described by Code
30 Section 15-6-1; or

31 (B) In which any service or program in which the probationer must participate as a
32 condition of probation is not available;

- 33 (7) Make reparation or restitution to any aggrieved person for the damage or loss caused
34 by the probationer's offense, in an amount to be determined by the court. Unless
35 otherwise provided by law, no reparation or restitution to any aggrieved person for the

1 damage or loss caused by the probationer's offense shall be made if the amount is in
2 dispute unless the same has been adjudicated;

3 (8) Make reparation or restitution as reimbursement to a municipality or county for the
4 payment for medical care furnished the person while incarcerated pursuant to the
5 provisions of Article 3 of Chapter 4 of this title. No reparation or restitution to a local
6 governmental unit for the provision of medical care shall be made if the amount is in
7 dispute unless the same has been adjudicated;

8 (9) Repay the costs incurred by any municipality or county for wrongful actions by an
9 inmate covered under the provisions of paragraph (1) of subsection (a) of Code Section
10 42-4-71;

11 (10) Support the probationer's legal dependents to the best of the probationer's ability;

12 (11) Violate no local, state, or federal laws and be of general good behavior;

13 (12) If permitted to move or travel to another state, agree to waive extradition from any
14 jurisdiction where the probationer may be found and not contest any effort by any
15 jurisdiction to return the probationer to this state; and

16 (13) Submit to evaluations and testing relating to rehabilitation and participate in and
17 successfully complete rehabilitative programming as directed by the department."

18 SECTION 20.

19 Said title is further amended by revising Code Section 42-8-35.1, relating to special
20 alternative incarceration, as follows:

21 "42-8-35.1.

22 (a) In addition to any other terms or conditions of probation provided for under this
23 chapter, the trial judge may provide that probationers sentenced for felony offenses
24 committed on or after July 1, 1993, to a period of time of not less than one year on
25 probation as a condition of probation must satisfactorily complete a program of
26 confinement in a 'special alternative incarceration—probation boot camp' unit of ~~the~~
27 ~~department~~ corrections for a period of 120 days computed from the time of initial
28 confinement in the unit; provided, however, ~~the department~~ that corrections may release
29 the defendant upon service of 90 days in recognition of excellent behavior.

30 (b) Before a court can place this condition upon the sentence, an initial investigation ~~will~~
31 shall be completed by the ~~probation officer~~ probation/parole supervisor which will indicate
32 that the probationer is qualified for such treatment in that the individual does not appear
33 to be physically or mentally disabled in a way that would prevent him or her from
34 strenuous physical activity, that the individual has no obvious contagious diseases, that the
35 individual is not less than 17 years of age nor more than 30 years of age at the time of
36 sentencing, and that ~~the department~~ corrections has granted provisional approval of the

1 placement of the individual in the 'special alternative incarceration—probation boot camp'
2 unit.

3 (c) In every case where an individual is sentenced under the terms of this Code section, the
4 sentencing court shall, within its probation order, direct ~~the department~~ corrections to
5 arrange with the sheriff's office in the county of incarceration to have the individual
6 delivered to a designated unit of ~~the department~~ corrections within a specific date not more
7 than 15 days after the issuance of such probation order by the court.

8 (d) At any time during the individual's confinement in the unit, but at least five days prior
9 to his or her expected date of release, ~~the department~~ corrections will certify to the trial
10 court as to whether the individual has satisfactorily completed this condition of probation.

11 (e) Upon the receipt of a satisfactory report of performance in the program from ~~the~~
12 ~~department~~ corrections, the trial court shall release the individual from confinement in the
13 'special alternative incarceration—probation boot camp' unit. However, the receipt of an
14 unsatisfactory report will be grounds for revocation of the probated sentence as would any
15 other violation of a condition or term of probation.

16 (f) The satisfactory report of performance in the program from ~~the department~~ corrections
17 shall, in addition to the other requirements specified in this Code section, require
18 participation of the individual confined in the unit in such adult education courses
19 necessary to attain the equivalency of a grade five competency level as established by the
20 State Board of Education for elementary schools. Those individuals who are mentally
21 disabled as determined by initial testing are exempt from mandatory participation. After
22 the individual is released from the unit, it shall be a special condition of probation that the
23 individual participate in an education program in the community until grade five level
24 competency is achieved or active probation supervision terminates. It shall be the duty of
25 ~~the department~~ corrections to certify to the trial court that such individual has satisfactorily
26 completed this condition of probation while on active probation supervision. The receipt
27 of an unsatisfactory report may be grounds for revocation of the probated sentence as
28 would any other violation of a condition or term of probation. Under certain
29 circumstances, the probationer may be exempt from this requirement if it is determined by
30 the probation/parole supervisor ~~officer~~ that community education resources are inaccessible
31 to the probationer."

32 SECTION 21.

33 Said title is further amended by revising subsection (c) of Code Section 42-8-35.4, relating
34 to confinement in probation detention centers, as follows:

35 "(c) During the period of confinement, ~~the department~~ corrections may transfer the
36 probationer to other facilities in order to provide needed physical and mental health care

1 or for other reasons essential to the care and supervision of the probationer or as necessary
2 for the effective administration and management of its facilities."

3 **SECTION 22.**

4 Said title is further amended by revising subsection (c) of Code Section 42-8-35.5, relating
5 to confinement in probation diversion centers, as follows:

6 "(c) ~~The department~~ Corrections may assess and collect room and board fees from
7 diversion center program participants at a level set by ~~the department~~ corrections."

8 **SECTION 23.**

9 Said title is further amended by revising subsection (a) of Code Section 42-8-36, relating to
10 a probationer's duties, as follows:

11 "(a)(1) Any other provision of this article to the contrary notwithstanding, it shall be the
12 duty of a probationer, as a condition of probation, to keep his or her probation/parole
13 supervisor informed as to his or her residence. Upon the recommendation of the
14 probation/parole supervisor, the court may also require, as a condition of probation and
15 under ~~such~~ any terms as the court deems advisable, that the probationer keep the
16 probation/parole supervisor informed as to ~~his~~ the probationer's whereabouts. The failure
17 of a probationer to report to his or her probation/parole supervisor as directed or a return
18 of non est inventus or other return to a warrant, for the violation of the terms and
19 conditions of probation, that the probationer cannot be found in the county that appears
20 from the records of the probation/parole supervisor to be the probationer's county of
21 residence shall automatically suspend the running of the probated sentence until the
22 probationer shall personally report to the probation/parole supervisor, is taken into
23 custody in this state, or is otherwise available to the court; and such period of time shall
24 not be included in computing creditable time served on probation or as any part of the
25 time that the probationer was sentenced to serve. The effective date of the tolling of the
26 sentence shall be the date that the ~~officer~~ probation/parole supervisor returns the warrant
27 showing non est inventus. Any officer authorized by law to issue or serve warrants may
28 return the warrant for the absconded probationer showing non est inventus.

29 (2) In addition to the provisions of paragraph (1) of this subsection, if the
30 probation/parole supervisor submits an affidavit to the court stating that a probationer has
31 absconded and cannot be found, the running of the probated sentence shall be suspended
32 effective on the date such affidavit is submitted to the court and continuing until the
33 probationer shall personally report to the probation/parole supervisor, is taken into
34 custody in this state, or is otherwise available to the court."

1 respect to supervision of parolees and other persons released from confinement shall not
 2 include inmates released from confinement on or after July 1, 2007."

3 SECTION 33.

4 Said title is further amended by revising Code Section 42-9-21, relating to supervision of
 5 persons placed on parole or other conditional release, as follows:

6 "42-9-21.

7 (a) The board shall have the function and responsibility of supervising all persons placed
 8 on parole or other conditional release by the board prior to July 1, 2007. On and after
 9 July 1, 2007, the department shall have the function and responsibility of supervising all
 10 persons placed on parole or other conditional release by the board.

11 (b) The board ~~is~~ and the department are authorized to maintain and operate or to enter into
 12 memoranda of agreement or other written documents evidencing contracts with other state
 13 agencies, persons, or any other entities for transitional or intermediate or other services or
 14 for programs deemed by the board or the department to be necessary for parolees or others
 15 conditionally released from imprisonment by order of the board and to require as a
 16 condition of relief that the offender pay directly to the provider a reasonable fee for said
 17 services or programs.

18 (c) In all cases where restitution is applicable, the board or department shall collect during
 19 the parole period those sums determined to be owed to the victim."

20 SECTION 34.

21 Said title is further amended by revising subsection (d) of Code Section 42-9-42, relating to
 22 procedure for granting relief from sentence, conditions, and violations of parole, as follows:

23 "(d)(1) Any person who is paroled shall be released on ~~such~~ the terms and conditions as
 24 the board shall prescribe. The board shall diligently see that no peonage is allowed in the
 25 guise of parole relationship ~~or supervision~~. The parolee shall remain in the legal custody
 26 of the board until the expiration of the maximum term specified in ~~his~~ the parolee's
 27 sentence or until ~~he~~ the parolee is pardoned by the board and shall be supervised during
 28 this period of time by the department.

29 (2) The board may require the payment of a parole supervision fee of at least \$10.00 per
 30 month as a condition of parole or other conditional release. The monthly amount shall
 31 be set by rule of the board and shall be uniform state wide. The board may require or the
 32 parolee or person under conditional release may request that up to 24 months of the
 33 supervision fee be paid in advance of the time to be spent on parole or conditional
 34 release. In such cases, any advance payments are nonreimbursable in the event of parole
 35 or conditional release revocation or if parole or conditional release is otherwise

1 terminated prior to the expiration of the sentence being served on parole or conditional
 2 release. ~~Such~~ The fees shall be collected by ~~the board~~ to a probation/parole supervisor
 3 and shall be paid into the general fund of the state treasury."

4 SECTION 35.

5 Said title is further amended by revising Code Section 42-9-44, relating to terms and
 6 conditions of parole and violation of parole, as follows:

7 "42-9-44.

8 (a) The board, upon placing a person on parole, shall specify in writing the terms and
 9 conditions thereof. A certified copy of the conditions shall be given to the parolee.
 10 Thereafter, a copy shall be sent to the clerk of the court in which the person was convicted.
 11 The board shall adopt general rules concerning the terms and conditions of parole and
 12 concerning what shall constitute a violation thereof and shall make special rules to govern
 13 particular cases. The rules, both general and special, may include, among other things, a
 14 requirement that the parolee shall not leave this state or any definite area in this state
 15 without the consent of the board; that the parolee shall contribute to the support of his or
 16 her dependents to the best of the parolee's ability; that the parolee shall make reparation
 17 or restitution for his or her crime; that the parolee shall abandon evil associates and ways;
 18 and that the parolee shall carry out the instructions of his or her probation/parole
 19 supervisor, and, in general, so comport himself or herself as the ~~parolee's~~ supervisor shall
 20 determine. A violation of the terms of parole may render the parolee liable to arrest and
 21 a return to a penal institution to serve out the term for which the parolee was sentenced.

22 (b) Each parolee who does not have a high school diploma or a general educational
 23 development equivalency diploma (GED) shall be required as a condition of parole to
 24 obtain a high school diploma or general educational development equivalency diploma
 25 (GED) or to pursue a trade at a ~~vocational or technical school~~ college. Any such parolee
 26 who demonstrates to the satisfaction of the board an existing ability or skill which does in
 27 fact actually furnish the parolee a reliable, regular, and sufficient income shall not be
 28 subject to this provision. Any parolee who is determined by the ~~Department of Corrections~~
 29 department or the board to be incapable of completing such requirements shall only be
 30 required to attempt to improve ~~their~~ his or her basic educational skills. Failure of any
 31 parolee subject to this requirement to attend the necessary schools or courses or to make
 32 reasonable progress toward fulfillment of such requirement shall be grounds for revocation
 33 of parole. The board shall establish regulations regarding reasonable progress as required
 34 by this subsection. This subsection shall apply to paroles granted on or after July 1, 1995."

1 he or she engages in sexual contact with another person who is a probationer or parolee
 2 under the supervision of said probation/parole supervisor or ~~parole~~ probation officer or who
 3 is in the custody of law or who is enrolled in a school or who is detained in or is a patient
 4 in a hospital or other institution and such actor has supervisory or disciplinary authority
 5 over such other person. A person convicted of sexual assault shall be punished by
 6 imprisonment for not less than ten nor more than 30 years; provided, however, that any
 7 person convicted of the offense of sexual assault under this subsection of a child under the
 8 age of 14 years shall be punished by imprisonment for not less than 25 nor more than 50
 9 years. Any person convicted under this subsection of the offense of sexual assault shall,
 10 in addition, be subject to the sentencing and punishment provisions of Code Section
 11 17-10-6.2."

12 **SECTION 40.**

13 Said title is further amended by revising subsection (b) of Code Section 16-10-24, relating
 14 to obstructing or hindering law enforcement officers, as follows:

15 "(b) Whoever knowingly and willfully resists, obstructs, or opposes any law enforcement
 16 officer, prison guard, correctional officer, probation/parole supervisor, ~~parole supervisor~~,
 17 or conservation ranger in the lawful discharge of his or her official duties by offering or
 18 doing violence to the person of such officer or legally authorized person is guilty of a
 19 felony and shall, upon conviction thereof, be punished by imprisonment for not less than
 20 one nor more than five years."

21 **SECTION 41.**

22 Said title is further amended by revising subsection (a) of Code Section 16-10-33, relating
 23 to removal or attempted removal of a weapon from a public official and punishment therefor,
 24 as follows:

25 "(a) It shall be unlawful for any person knowingly to remove or attempt to remove a
 26 firearm, chemical spray, or baton from the possession of another person if:

- 27 (1) The other person is lawfully acting within the course and scope of employment; and
 28 (2) The person has knowledge or reason to know that the other person is employed as:
 29 (A) A peace officer as defined in paragraph (8) of Code Section 35-8-2;
 30 (B) A probation officer, or other employee with the power of arrest, by the Department
 31 of ~~Corrections~~ Probation/Parole Community Based Supervision;
 32 (C) A probation/parole supervisor, or other employee with the power of arrest, by the
 33 ~~State Board of Pardons and Paroles~~ Department of Probation/Parole Community Based
 34 Supervision;

1 (D) A jail officer or guard by a county or municipality and has the responsibility of
 2 supervising inmates who are confined in a county or municipal jail or other detention
 3 facility; or

4 (E) A juvenile correctional officer by the Department of Juvenile Justice and has the
 5 primary responsibility for the supervision and control of youth confined in such
 6 department's programs and facilities."

7 **SECTION 42.**

8 Said title is further amended by revising subsection (d) of Code Section 16-11-37, relating
 9 to terroristic threats and acts and penalties therefor, as follows:

10 "(d) A person who commits or attempts to commit a terroristic threat or act with the intent
 11 to retaliate against any person for:

12 (1) Attending a judicial or administrative proceeding as a witness, attorney, judge, or
 13 party or producing any record, document, or other object in a judicial or official
 14 proceeding; or

15 (2) Providing to a law enforcement officer, adult probation/parole supervisor or juvenile
 16 probation officer, prosecuting attorney, or judge any information relating to the
 17 commission or possible commission of an offense under the laws of this state or of the
 18 United States or a violation of conditions of bail, pretrial release, probation, or parole
 19 shall be guilty of the offense of a terroristic threat or act and, upon conviction thereof, shall
 20 be punished, for a terroristic threat, by imprisonment for not less than five nor more than
 21 ten years or by a fine of not less than \$50,000.00, or both, and, for a terroristic act, by
 22 imprisonment for not less than five nor more than 20 years or by a fine of not less than
 23 \$100,000.00, or both."

24 **SECTION 43.**

25 Said title is further amended by revising paragraph (1) of Code Section 16-11-124, relating
 26 to exemptions from application of the "Georgia Firearms and Weapons Act," as follows:

27 "(1) A peace officer of any duly authorized police agency of this state or of any political
 28 subdivision thereof, or a law enforcement officer of any department or agency of the
 29 United States who is regularly employed and paid by the United States, this state, or any
 30 such political subdivision, ~~or~~ an employee of the Department of Corrections of this state
 31 who is authorized in writing by the commissioner of corrections to transfer or possess
 32 such firearms while in the official performance of his or her duties, or an employee of the
 33 Department of Probation/Parole Community Based Supervision of this state who is
 34 authorized in writing by the director of the Department of Probation/Parole Community

1 Based Supervision to transfer or possess such firearms while in the official performance
 2 of his or her duties;".

3 **SECTION 44.**

4 Said title is further amended by revising paragraph (12) of subsection (c) of Code Section
 5 16-11-127.1, relating to carrying weapons within school safety zones, at school functions,
 6 or on school property, as follows:

7 "(12) Probation supervisors employed by and under the authority of the Department of
 8 Corrections pursuant to Article 2 of Chapter 8 of Title 42, known as the 'State-wide
 9 Probation Act,' when specifically designated and authorized in writing by the director of
 10 the Division of Probation or an employee of the Department of Probation/Parole
 11 Community Based Supervision of this state who is authorized in writing by the director
 12 of the Department of Probation/Parole Community Based Supervision to transfer or
 13 possess such firearms while in the official performance of his or her duties;".

14 **SECTION 45.**

15 Said title is further amended by revising subsections (a) and (b) of Code Section 16-11-130,
 16 relating to certain exemptions concerning carrying weapons, as follows:

17 "(a) Code Sections 16-11-126 through 16-11-128 shall not apply to or affect any of the
 18 following persons if such persons are employed in the offices listed below or when
 19 authorized by federal or state law, regulations, or order:

20 (1) Peace officers, as such term is defined in paragraph (11) of Code Section 16-1-3, and
 21 retired peace officers so long as they remain certified whether employed by the state or
 22 a political subdivision of the state or another state or a political subdivision of another
 23 state but only if such other state provides a similar privilege for the peace officers of this
 24 state;

25 (2) Wardens, superintendents, and keepers of correctional institutions, jails, or other
 26 institutions for the detention of persons accused or convicted of an offense;

27 (3) Persons in the military service of the state or of the United States;

28 (4) Persons employed in fulfilling defense contracts with the government of the United
 29 States or agencies thereof when possession of the weapon is necessary for manufacture,
 30 transport, installation, and testing under the requirements of such contract;

31 (5) District attorneys, investigators employed by and assigned to a district attorney's
 32 office, assistant district attorneys, attorneys employed by the Prosecuting Attorneys'
 33 Council of Georgia, and any retired district attorney, assistant district attorney, or district
 34 attorneys investigator if such retired employee is receiving benefits under Title 47 or is

1 retired in good standing and receiving benefits from a county or municipal retirement
2 system;

3 (6) State court solicitors-general; investigators employed by and assigned to a state court
4 solicitor-general's office; assistant state court solicitors-general; the corresponding
5 personnel of any city court expressly continued in existence as a city court pursuant to
6 Article VI, Section X, Paragraph I, subparagraph (5) of the Constitution; and the
7 corresponding personnel of any civil court expressly continued as a civil court pursuant
8 to said provision of the Constitution;

9 (7) Those employees of the State Board of Pardons and Paroles when specifically
10 designated and authorized in writing by the members of the State Board of Pardons and
11 Paroles to carry a weapon and those employees of the Department of Probation/Parole
12 Community Based Supervision of this state who are authorized in writing by the director
13 of the Department of Probation/Parole Community Based Supervision to transfer or
14 possess such firearms while in the official performance of their duties;

15 (8) The Attorney General and those members of his or her staff whom he or she
16 specifically authorizes in writing to carry a weapon;

17 (9) Chief probation officers, probation officers, intensive probation officers, and
18 surveillance officers employed by and under the authority of the Department of
19 Corrections pursuant to Article 2 of Chapter 8 of Title 42, known as the 'State-wide
20 Probation Act,' when specifically designated and authorized in writing by the director of
21 Division of Probation;

22 (10) Public safety directors of municipal corporations;

23 (11) Explosive ordnance disposal technicians, as such term is defined by Code Section
24 16-7-80, and persons certified as provided in Code Section 35-8-13 to handle animals
25 trained to detect explosives, while in the performance of their duties;

26 (12) State and federal trial and appellate judges, full-time and permanent part-time
27 judges of municipal and city courts, and former state trial and appellate judges retired
28 from their respective offices under state retirement;

29 (13) United States Attorneys and Assistant United States Attorneys;

30 (14) County medical examiners and coroners and their sworn officers employed by
31 county government; and

32 (15) Clerks of the superior courts.

33 (b) Code Sections 16-11-126 through 16-11-128 shall not apply to or affect persons who
34 at the time of their retirement from service with the Department of Corrections were chief
35 probation officers, probation officers, intensive probation officers, or surveillance officers,
36 when specifically designated and authorized in writing by the director of Division of
37 Probation or were probation/parole supervisors of the Department of Probation/Parole

1 Community Based Supervision of this state when specifically designated and authorized
 2 in writing by the director of the Department of Probation/Parole Community Based
 3 Supervision."

4 **SECTION 46.**

5 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
 6 amended by revising subsection (a) of Code Section 17-10-1, relating to fixing and
 7 modification of sentences, as follows:

8 "(a)(1) Except in cases in which life imprisonment, life without parole, or the death
 9 penalty may be imposed, upon a verdict or plea of guilty in any case involving a
 10 misdemeanor or felony, and after a presentence hearing, the judge fixing the sentence
 11 shall prescribe a determinate sentence for a specific number of months or years which
 12 shall be within the minimum and maximum sentences prescribed by law as the
 13 punishment for the crime. The judge imposing the sentence is granted power and
 14 authority to suspend or probate all or any part of the entire sentence under such rules and
 15 regulations as the judge deems proper, including service of a probated sentence in the
 16 sentencing options system, as provided by Article 9 of Chapter 8 of Title 42, and
 17 including the authority to revoke the suspension or probation when the defendant has
 18 violated any of the rules and regulations prescribed by the court, even before the
 19 probationary period has begun, subject to the conditions set out in this subsection;
 20 provided, however, that such action shall be subject to the provisions of Code Sections
 21 17-10-6.1 and 17-10-6.2.

22 (2) Probation supervision shall terminate in all cases no later than two years from the
 23 commencement of probation supervision unless specially extended or reinstated by the
 24 sentencing court upon notice and hearing and for good cause shown; provided, however,
 25 that, in those cases involving the collection of fines, restitution, or other funds, the period
 26 of supervision shall remain in effect for so long as any ~~such~~ obligation is outstanding, or
 27 until termination of the sentence, whichever first occurs; and provided, further, that,
 28 where a period of postincarceration probation is increased as a result of parole or other
 29 release as provided in Code Section 17-10-1.3, the otherwise applicable two-year
 30 maximum shall be increased by the amount of time for which the period of
 31 postincarceration probation is increased. Probation supervision shall not be required for
 32 defendants sentenced to probation while the defendant is in the legal custody of the
 33 Department of Corrections ~~or the State Board of Pardons and Paroles.~~

34 (3)(A) Any part of a sentence of probation revoked for a violation other than a
 35 subsequent commission of any felony, a violation of a special condition, or a
 36 misdemeanor offense involving physical violence resulting in bodily injury to an

1 innocent victim which in the opinion of the trial court constitutes a danger to the
 2 community or a serious infraction occurring while the defendant is assigned to an
 3 alternative probation confinement facility shall be served in a probation detention
 4 center, probation boot camp, diversion center, weekend lock up, or confinement in a
 5 local jail or detention facility, or other community correctional alternatives available
 6 to the court or provided by the Department of Corrections.

7 (B) A parolee or probationer charged with a misdemeanor involving physical injury
 8 or an attempt to commit physical injury or terroristic threats or with a new felony shall
 9 not be entitled to bond pending a hearing on the revocation of his or her parole or
 10 probation, except by order of a judge of the superior, state, or magistrate court wherein
 11 the alleged new offense occurred after a hearing and upon determination of the
 12 superior, state, or magistrate court that the parolee or probationer does not constitute
 13 a threat to the community; provided, however, that this subparagraph does not authorize
 14 state or magistrate court judges to grant bail for a person charged with any offense
 15 listed in subsection (a) of Code Section 17-6-1.

16 (4) In cases of imprisonment followed by probation, the sentence shall specifically
 17 provide that the period of probation shall not begin until the defendant has completed
 18 service of the confinement portion of the sentence or been released from confinement by
 19 the State Board of Pardons and Paroles as provided in Code Section 17-10-1.3. No With
 20 respect to a sentence entered prior to July 1, 2007, no revocation of any part of a probated
 21 sentence shall be effective while a defendant is in the legal custody of the State Board of
 22 Pardons and Paroles.

23 (5)(A) Where a defendant has been sentenced to probation, the court shall retain
 24 jurisdiction throughout the period of the probated sentence as provided for in subsection
 25 (g) of Code Section 42-8-34. Without limiting the generality of the foregoing, the court
 26 may shorten the period of probation on motion of the defendant or on its own motion,
 27 if the court determines that probation is no longer necessary or appropriate for the ends
 28 of justice, the protection of society, and the rehabilitation of the defendant. Prior to
 29 entering any order for shortening a period of probation, the court shall afford notice to
 30 the victim or victims of all sex related offenses or violent offenses resulting in serious
 31 bodily injury or death, and, upon request of the victim or victims so notified, shall
 32 afford notice and an opportunity for hearing to the defendant and the prosecuting
 33 attorney.

34 (B) The Department of ~~Corrections~~ Probation/Parole Community Based Supervision
 35 shall establish a form document which shall include the elements set forth in this Code
 36 section concerning notification of victims and shall make copies of such form available
 37 to prosecuting attorneys in the state. When requested by the victim, the form document

1 shall be provided to the victim by the prosecuting attorney. The form shall include the
 2 address of the probation/parole community based supervision office having jurisdiction
 3 over the case and contain a statement that the victim must maintain a copy of his or her
 4 address with the probation/parole community based supervision office and must notify
 5 the office of any change of address in order to maintain eligibility for notification by
 6 the Department of ~~Corrections~~ Probation/Parole Community Based Supervision as
 7 required in this Code section.

8 (6)(A) Except as otherwise authorized by law, no court shall modify, suspend, probate,
 9 or alter a previously imposed sentence so as to reduce or eliminate a period of
 10 incarceration or probation and impose a financial payment which:

- 11 (i) Exceeds the statutorily specified maximum fine, plus all penalties, fees,
 12 surcharges, and restitution permitted or authorized by law; or
- 13 (ii) Is to be made to an entity which is not authorized by law to receive fines,
 14 penalties, fees, surcharges, or restitution.

15 (B) The prohibitions contained in this paragraph shall apply regardless of whether a
 16 defendant consents to the modification, suspension, probation, or alteration of such
 17 defendant's sentence and the imposition of such payment.

18 (C) Nothing in this paragraph shall prohibit or prevent a court from requiring, as a
 19 condition of suspension, modification, or probation of a sentence in a criminal case
 20 involving child abandonment, that the defendant pay all or a portion of child support
 21 which is owed to the custodial parent of a child which is the subject of such case."

22 **SECTION 47.**

23 Said title is further amended by adding immediately after Code Section 17-10-1.2, relating
 24 to oral victim impact statements, a new Code Section 17-10-1.3 to read as follows:

25 "17-10-1.3.

26 (a) As used in this Code section, the term 'split sentence' means any felony sentence that
 27 includes a term of imprisonment followed by a term of probation.

28 (b) In any case where a judge on or after July 1, 2007, sentences a defendant to a split
 29 sentence, postincarceration supervision of the defendant shall be conducted exclusively by
 30 the Department of Probation/Parole Community Based Supervision and not by the State
 31 Board of Pardons and Paroles, regardless of whether the defendant has served the full
 32 period of incarceration ordered in the sentence or has been released prior to the full period
 33 of incarceration by parole, conditional release, or other action of the State Board of Pardons
 34 and Paroles.

35 (c) Any split sentence order entered on or after July 1, 2007, shall provide that the
 36 postincarceration period of probation ordered in the sentence shall be increased by an

1 amount of time equal to any amount of time by which the period of incarceration is
 2 decreased by the State Board of Pardons and Paroles. Such increased portion of the period
 3 of probation shall run concurrently with the period of time by which the period of
 4 incarceration was decreased and shall commence upon the defendant's release from
 5 incarceration. Any split sentence order entered on or after July 1, 2007, which by its terms
 6 fails to so provide for the increased period of probation shall be deemed to so provide by
 7 operation of law.

8 (d) In any case where a judge on or after July 1, 2007, sentences a defendant for a felony
 9 offense to straight probation or to an alternative probation confinement facility, supervision
 10 of the defendant shall be conducted exclusively by the Department of Probation/Parole
 11 Community Based Supervision and not by the state-wide probation system.

12 (e) Nothing in this Code section shall apply to or affect any case in which a pardon is
 13 granted by the State Board of Pardons and Paroles."

14 **SECTION 48.**

15 Said title is further amended by revising subsection (a) of Code Section 17-10-6, relating to
 16 sentence review for sentences of imprisonment exceeding 12 years, as follows:

17 "(a) In any case, except cases in which the death penalty is imposed or cases involving a
 18 serious violent felony as defined in subsection (a) of Code Section 17-10-6.1, in which a
 19 sentence of 12 or more years, or several consecutive sentences which total 12 or more
 20 years, has been fixed and imposed by a judge, without a jury, the defendant shall have the
 21 right to have the sentence or sentences reviewed by a panel of three superior court judges
 22 to determine whether the sentence or sentences so imposed are excessively harsh.
 23 Consideration shall be given in the review to the nature of the crime for which the
 24 defendant has been convicted and to the defendant's prior criminal record. Any defendant
 25 seeking a review of such sentence or sentences shall make application therefor within 30
 26 days of the date on which the sentence was imposed by a judge of the superior court or
 27 after the remittitur from the Court of Appeals or Supreme Court affirming the conviction
 28 is made the judgment of the sentencing court, whichever occurs last. The application shall
 29 be filed with the clerk of the superior court in which the sentence was imposed. Upon the
 30 filing of an application the clerk shall transmit the same to the three-judge panel created
 31 under this Code section within ten days of the date on which the application was filed. For
 32 such service, the clerk shall receive the fees prescribed in Code Section 15-6-77 from the
 33 funds of the county, except where the clerk is on a salary. It shall be the duty of the judge
 34 imposing the sentence and any ~~probation officer~~ probation/parole supervisor to transmit,
 35 within ten days of the filing of an application for review of a sentence, a copy of any

1 presentence or postsentence report prepared by the ~~probation officer~~ probation/parole
 2 supervisor, including the record of the defendant, to the three-judge panel."

3 **SECTION 49.**

4 Said title is further amended by revising subsections (c) and (d) of Code Section 17-10-9.1,
 5 relating to voluntary surrender to county jail or correctional institution and release of
 6 defendant, as follows:

7 "(c) When a defendant submits a request to the sentencing judge to be allowed to surrender
 8 voluntarily to a county jail or a correctional facility, the judge may consider the request and
 9 if, taking into the consideration the crime for which the defendant is being sentenced, the
 10 history of the defendant, and any other factors which may aid in the decision, the judge
 11 determines that the granting of the request will pose no threat to society, the defendant shall
 12 be remanded to the supervision of a ~~probation officer~~ probation/parole supervisor by the
 13 judge and ordered to surrender voluntarily to a county jail designated by the court or to a
 14 correctional institution as thereafter designated by the Department of Corrections. The
 15 surrender date shall be a date thereafter specified as provided in subsection (d) of this Code
 16 section. The sentence of any defendant who is released pursuant to this Code section shall
 17 not begin to run until such person surrenders to the facility designated by the court or by
 18 the department, provided that such person will receive credit toward his or her sentence for
 19 time spent in confinement awaiting trial as provided in Code Section 17-10-11.

20 (d) In the event the defendant is ordered to surrender voluntarily to a county jail, the court
 21 shall designate the date on which the defendant shall surrender, which date shall not be
 22 more than 120 days after the date of conviction. When the sentencing judge issues an order
 23 requiring a defendant to surrender voluntarily to a correctional institution, the Department
 24 of Corrections shall authorize the commitment and designate the correctional institution
 25 to which the defendant shall report and the date on which the defendant is to report, which
 26 date shall not be more than 120 days after the date of conviction. Upon such designation,
 27 the department shall notify the ~~supervising probation officer~~ defendant's probation/parole
 28 supervisor who shall notify the defendant accordingly. Subsistence and transportation
 29 expenses en route to the correctional institution shall be borne by the defendant."

30 **SECTION 50.**

31 Said title is further amended by revising Code Section 17-14-8, relating to apportionment of
 32 payments for fines and restitution, as follows:

33 "17-14-8.

34 (a) In any case in which a court sentences an offender to pay restitution and a fine, if the
 35 court permits the offender to pay such restitution and fine in other than a lump sum, the

1 clerk of any superior court of this state, probation officer or ~~parole officer~~ probation/parole
 2 supervisor, or other official who receives such partial payments shall apply not less than
 3 one-half of each payment to the restitution before paying any portion of such fine or any
 4 forfeitures, costs, fees, or surcharges provided for by law to any agency, department,
 5 commission, committee, authority, board, or bureau of state or local government.

6 (b) The clerk of any court of this state, probation officer or ~~parole officer~~ probation/parole
 7 supervisor, or other official who receives partial payments for restitution shall pay the
 8 restitution amount to the victim as provided in the restitution order not later than the last
 9 day of each month, provided that the amount exceeds \$100.00. If the amount does not
 10 exceed \$100.00, the clerk of any court of this state, probation officer or ~~parole officer~~
 11 probation/parole supervisor, or other official may allow the amount of restitution to
 12 accumulate until such time as it exceeds \$100.00 or until the end of the next calendar
 13 quarter, whichever occurs first."

14 **SECTION 51.**

15 Said title is further amended by revising subsection (c) of Code Section 17-14-14, relating
 16 to restitution payments, as follows:

17 "(c) Until such time as the restitution has been paid or the sentence has been completed,
 18 the clerk of court or the probation officer or ~~parole officer~~ probation/parole supervisor
 19 assigned to the case, whoever is responsible for collecting restitution, shall review the case
 20 not less frequently than twice yearly to ensure that restitution is being paid as ordered. If
 21 the restitution was ordered to be made within a specific period of time, the case shall be
 22 reviewed at the end of the specific period of time to determine if the restitution has been
 23 paid in full. The final review shall be conducted before the sentence or probationary or
 24 parole period expires. If it is determined at any review that restitution is not being paid as
 25 ordered, a written report of the violation shall be filed with the court on a form prescribed
 26 by the Council of Superior Court Clerks of Georgia."

27 **SECTION 52.**

28 Said title is further amended by revising paragraph (5) of Code Section 17-17-3, relating to
 29 definitions in the "Crime Victims' Bill of Rights," as follows:

30 "(5) 'Custodial authority' means a warden, sheriff, jailer, deputy sheriff, police officer,
 31 correctional officer, officer or employee of the Department of Corrections, Department
 32 of Probation/Parole Community Based Supervision, or the Department of Juvenile
 33 Justice, or any other law enforcement officer having actual custody of the accused."

SECTION 53.

Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is amended by revising subsection (a) of Code Section 19-7-52, relating to whom child support payments are made, as follows:

"(a) The court may order that support payments be made to the mother or other interested party, the child support receiver, the prosecuting attorney, the probation officer, the probation/parole supervisor, or the clerk of court, provided that, in those cases where the action has been brought by the Department of Human Resources on behalf of a child, the support payment shall be made to the Department of Human Resources for distribution or to the child support receiver if the Department of Human Resources so requests."

SECTION 54.

Said title is further amended by revising Code Section 19-11-21, relating to payment of support to the Department of Human Resources, as follows:

"19-11-21.

Payment of support pursuant to an administrative determination or a voluntary agreement shall be made to the department. In non-TANF cases, where the department deems it appropriate, it may authorize distribution of the actual payment by other individuals, agencies, or entities and utilize certification schedules reflecting such payments or distributions which the department requires, in accordance with the federal Social Security Act, as amended. Child support which is ordered by a court pursuant to a divorce decree or in any other proceeding in which the responsible parent is required to pay support for his or her child or children, whether the proceeding is civil or criminal, shall be paid by the responsible parent, the clerk of court, the probation officer, the probation/parole supervisor, the child support receiver, or a similar official who is collecting support to the department upon the department's certification that the child is a recipient of public assistance or upon the department's certification that an application has been filed with the department for enforcement of support in accordance with the provisions of the federal Social Security Act."

SECTION 55.

Said title is further amended by revising paragraph (4) of Code Section 19-13-51, relating to definitions in the "Family Violence and Stalking Protective Order Registry Act," as follows:

"(4) 'Law enforcement officer' means any agent or officer of this state, or a political subdivision or municipality thereof, who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to

1 enforce the criminal or traffic laws and whose duties include the preservation of public
 2 order, the protection of life and property, or the prevention, detection, or investigation of
 3 crime. Such term also includes the following: state or local officer, sheriff, deputy
 4 sheriff, dispatcher, 9-1-1 operator, police officer, prosecuting attorney, member of the
 5 State Board of Pardons and Paroles, and a hearing officer ~~and parole officer or~~
 6 probation/parole supervisor of the ~~State Board of Pardons and Paroles, and a probation~~
 7 ~~officer of the~~ Department of Corrections Probation/Parole Community Based
 8 Supervision."

9 SECTION 56.

10 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
 11 amended by revising subsection (b) of Code Section 40-5-81, relating to attendance at driver
 12 improvement programs, as follows:

13 "(b) Whenever any person is authorized or required to attend a driver improvement clinic
 14 or DUI Alcohol or Drug Use Risk Reduction Program as a condition of any sentence
 15 imposed under this title or any ordinance enacted pursuant to this title or as a condition of
 16 the retention or restoration of the person's driving privilege, such person, in complying
 17 with such condition, shall be authorized to attend any driver improvement clinic or DUI
 18 Alcohol or Drug Use Risk Reduction Program certified under this article; and no judicial
 19 officer, probation officer, probation/parole supervisor, law enforcement officer, or other
 20 officer or employee of a court or person who owns, operates, or is employed by a private
 21 company which has contracted to provide private probation services for misdemeanor cases
 22 shall specify, directly or indirectly, a particular driver improvement clinic or DUI Alcohol
 23 or Drug Use Risk Reduction Program which the person may or shall attend. This Code
 24 section shall not prohibit any judicial officer, probation officer, probation/parole
 25 supervisor, law enforcement officer, or other officer or employee of a court or owner,
 26 operator, or employee of a private company which has contracted to provide probation
 27 services for misdemeanor offenders from furnishing any person, upon request, the names
 28 of certified driver improvement clinics or DUI Alcohol or Drug Use Risk Reduction
 29 Programs."

30 SECTION 57.

31 Said title is further amended by revising subsection (d) of Code Section 40-5-83, relating to
 32 establishment and approval of driving clinics and programs and restrictions, as follows:

33 "(d) Notwithstanding the provisions of any law or rule or regulation which prohibits any
 34 individual who is a probation officer or other official or employee of the probation division
 35 of the Department of Corrections or a spouse of such individual from owning, operating,

1 instructing at, or being employed by a driver improvement clinic, any individual who is a
 2 probation officer or other official or employee of the probation division of the Department
 3 of Corrections or a spouse of such individual who owns, operates, instructs at, or is
 4 employed by a driver improvement clinic on June 1, 1985, and who in all respects is and
 5 remains qualified to own, operate, instruct at, or be employed by a driver improvement
 6 clinic is expressly authorized to continue on and after June 1, 1985, to engage in such
 7 activities. Any individual who is a probation/parole supervisor or other official or
 8 employee of the Department of Probation/Parole Community Based Supervision or a
 9 spouse of such individual who owns, operates, instructs at, or is employed by a driver
 10 improvement clinic on June 1, 2007, and who in all respects is and remains qualified to
 11 own, operate, instruct at, or be employed by a driver improvement clinic is expressly
 12 authorized to continue on and after June 1, 2007, to engage in such activities. No person
 13 who owns, operates, or is employed by a private company which has contracted to provide
 14 probation services for misdemeanor cases shall be authorized to own, operate, be an
 15 instructor at, or be employed by a driver improvement clinic or a DUI Alcohol or Drug Use
 16 Risk Reduction Program."

17 SECTION 58.

18 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
 19 is amended by revising subsection (e) of Code Section 45-7-9, relating to compensation for
 20 line-of-duty injuries to full-time state employees and exceptions, as follows:

21 "(e) Any employee of the Department of Corrections, employee of the State Board of
 22 Pardons and Paroles, employee of the Department of Probation/Parole Community Based
 23 Supervision, employee of the Department of Natural Resources, employee of the
 24 Department of Revenue, or law enforcement officer who qualifies for disability allowances
 25 pursuant to Code Section 47-2-221 shall not be entitled to any benefits provided in this
 26 Code section."

27 SECTION 59.

28 Said title is further amended by revising paragraph (8) of Code Section 45-9-81, relating to
 29 definitions concerning the Georgia State Indemnification Fund, as follows:

30 "(8) 'Prison guard' means any person employed by the state or any political subdivision
 31 thereof whose principal duties relate to the supervision and incarceration of persons
 32 accused or convicted of the violation of the criminal laws of this state or any political
 33 subdivision thereof. Such term shall also mean any probation/parole supervisor or parole
 34 officer who is required to be certified under Chapter 8 of Title 35, the 'Georgia Peace
 35 Officer Standards and Training Act,' and whose principal duties directly relate to the

1 supervision of adult probationers or adult parolees. Such term also means any person
2 employed by the state or any political subdivision thereof whose principal duties include
3 the supervision of youth who are charged with or adjudicated for an act which if
4 committed by adults would be considered a crime."

5 **SECTION 60.**

6 This Act shall become effective July 1, 2007, and shall apply with respect to sentences
7 entered on or after that date.

8 **SECTION 61.**

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