

Senate Bill 48

By: Senators Carter of the 13th and Whitehead, Sr. of the 24th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 42-5-50 of the Official Code of Georgia Annotated, relating to
2 transmittal of information on convicted persons and place of detention, so as to provide that
3 after a convicted person has remained in custody of the local jail for a period of 90 days after
4 a request for local custody has been filed on behalf of such person, the sheriff through the
5 prosecuting attorney may petition the sentencing court for a hearing to determine whether
6 such convicted person should be transferred to the custody of the commissioner of
7 corrections; to provide for notice to the attorney of record for the convicted person; to
8 provide for certain matters to be considered by the court; to provide that the court order shall
9 specify the conditions of continued incarceration of the convicted person; to provide under
10 certain conditions for transfer of the convicted person to the custody of the commissioner of
11 corrections; to provide for related matters; to repeal conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Code Section 42-5-50 of the Official Code of Georgia Annotated, relating to transmittal of
15 information on convicted persons and place of detention, is amended by revising subsection
16 (c) as follows:

17 "(c)(1) In the event that the attorney for the convicted person shall file a written request
18 with the court setting forth that the presence of the convicted person is required within
19 the county of the conviction, or incarceration, in order to prepare and prosecute properly
20 the appeal of the conviction, the convicted person shall not be transferred to the
21 correctional institution as provided in subsection (b) of this Code section. Except as
22 otherwise provided in paragraph (2) of this subsection, in ~~in~~ such event the convicted
23 person shall remain in the custody of the local jail or lockup until all appeals of the
24 conviction shall be disposed of or until the attorney of record for the convicted person
25 shall file with the trial court an affidavit setting forth that the presence of the convicted

1 person is no longer required within the county in which the conviction occurred, or in
2 which the convicted person is incarcerated, whichever event shall first occur.

3 (2) After a convicted person has remained in custody of the local jail or lockup for a
4 period of 90 days after a request for local custody has been filed on behalf of such person
5 as provided in paragraph (1) of this subsection, the sheriff through the prosecuting
6 attorney may petition the sentencing court for a hearing to determine whether such
7 convicted person should be transferred to the custody of the commissioner of corrections.
8 Notice of such petition for hearing shall be provided to the attorney of record for the
9 convicted person and the commissioner of corrections by registered or certified mail or
10 statutory overnight delivery, return receipt requested. The court shall consider the merits
11 of the appeal, available space in the local jail and Department of Corrections system,
12 whether any problems or dangers would result from the presence of the convicted person
13 in the local jail, and any other factors raised by the sheriff or the attorney of record for
14 the convicted person. The order of the court shall specify whether the convicted person
15 shall be transferred to the custody of the commissioner of corrections, remain in the local
16 jail for an additional specified period of time, or remain in the local jail until all appeals
17 of the conviction shall be disposed of or the attorney of record for the convicted person
18 shall file with the trial court an affidavit setting forth that the presence of the convicted
19 person is no longer required within the county in which the conviction occurred, or in
20 which the convicted person is incarcerated, whichever of the latter two events shall first
21 occur. If the court's order specifies that the convicted person shall be transferred to the
22 custody of the commissioner of corrections, the convicted person shall be processed,
23 assigned, and transferred as provided in subsections (a) and (b) of this Code section."

24 SECTION 2.

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