

House Bill 779

By: Representative Barnard of the 166th

A BILL TO BE ENTITLED
AN ACT

To amend Article 6 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to agreements for probation services, so as to establish a minimum supervision fee which shall be charged under agreements for private probation supervision services; to authorize the supervision of certain felony offenders pursuant to such agreements for private probation supervision services; to authorize certain probation officers to supervise certain nonviolent felony offenders; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 6 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to agreements for probation services, is amended by revising Code Section 42-8-100, relating to agreements between chief judges of county courts or judges of municipal courts and corporations, enterprises, or agencies for probation services, as follows:

"42-8-100.

(a) As used in this article, the term:

(1) 'Council' means the County and Municipal Probation Advisory Council created under Code Section 42-8-101.

(2) 'Private probation officer' means a probation officer employed by a private corporation, private enterprise, private agency, or other private entity that provides probation services.

(3) 'Probation officer' means a person employed to supervise defendants placed on probation by a county or municipal court for committing an ordinance violation, ~~or~~ misdemeanor, or nonviolent felony as designated in this Code section.

(b) Any county or municipal court which has original jurisdiction of ordinance violations, ~~or~~ misdemeanors, or nonviolent felonies as designated in this Code section and in which the defendant in such a case has been found guilty upon verdict or any plea may, at a time

1 to be determined by the court, hear and determine the question of the probation of such
2 defendant.

3 (c) If it appears to the court upon a hearing of the matter that the defendant is not likely to
4 engage in an unlawful course of conduct and that the ends of justice and the welfare of
5 society do not require that the defendant shall presently suffer the penalty imposed by law,
6 the court in its discretion shall impose sentence upon the defendant but may stay and
7 suspend the execution of the sentence or any portion thereof or may place him or her on
8 probation under the supervision and control of a probation officer for the duration of such
9 probation, subject to the provisions of this Code section. The period of probation or
10 suspension shall not exceed the maximum sentence of confinement which could be
11 imposed on the defendant.

12 (d) The court may, in its discretion, require the payment of a fine or costs, or both, as a
13 condition precedent to probation.

14 (e) The sentencing judge shall not lose jurisdiction over any person placed on probation
15 during the term of his or her probated sentence. The judge is empowered to revoke any or
16 all of the probated sentence, rescind any or all of the sentence, or, in any manner deemed
17 advisable by the judge, modify or change the probated sentence at any time during the
18 period of time originally prescribed for the probated sentence to run.

19 (f) If a defendant is placed on probation pursuant to this Code section by a county or
20 municipal court other than one for the county or municipality in which he or she resides ~~for~~
21 ~~committing any ordinance violation or misdemeanor~~, such defendant may, when
22 specifically ordered by the court, have his or her probation supervision transferred to the
23 county or municipality in which he or she resides.

24 (g)(1) The chief judge of any court within the county, with the approval of the governing
25 authority of that county, is authorized to enter into written contracts with corporations,
26 enterprises, or agencies to provide probation supervision, counseling, collection services
27 for all moneys to be paid by a defendant according to the terms of the sentence imposed
28 on the defendant as well as any moneys which by operation of law are to be paid by the
29 defendant in consequence of the conviction, and other probation services for persons
30 convicted in that court and placed on probation in the county. ~~In no case shall a private~~
31 ~~probation corporation or enterprise be charged with the responsibility for supervising a~~
32 ~~felony sentence.~~ The final contract negotiated by the chief judge with the private
33 probation entity shall be attached to the approval by the governing authority of the county
34 to privatize probation services as an exhibit thereto. The termination of a contract for
35 probation services as provided for in this subsection entered into on or after July 1, 2001,
36 shall be initiated by the chief judge of the court which entered into the contract, and
37 subject to approval by the governing authority of the county which entered into the

1 contract and in accordance with the agreed upon; written provisions of such contract. The
2 termination of a contract for probation services as provided for in this subsection in
3 existence on July 1, 2001, and which contains no provisions relating to termination of
4 such contract shall be initiated by the chief judge of the court which entered into the
5 contract, and subject to approval by the governing authority of the county which entered
6 into the contract and in accordance with the agreed upon; written provisions of such
7 contract. In addition to any other fine, fee, or amount required by law or court order, the
8 minimum supervision fee which shall be imposed as a condition of probation under any
9 such contract shall be \$50.00 per each month under supervision.

10 (2) The chief judge of any court within the county, with the approval of the governing
11 authority of that county, is authorized to establish a county probation system to provide
12 probation supervision, counseling, collection services for all moneys to be paid by a
13 defendant according to the terms of the sentence imposed on the defendant as well as any
14 moneys which by operation of law are to be paid by the defendant in consequence of the
15 conviction, and other probation services for persons convicted in that court and placed
16 on probation in the county.

17 (h)(1) The judge of the municipal court of any municipality or consolidated government
18 of a municipality and county of this state, with the approval of the governing authority
19 of that municipality or consolidated government, is authorized to enter into written
20 contracts with private corporations, enterprises, or agencies to provide probation
21 supervision, counseling, collection services for all moneys to be paid by a defendant
22 according to the terms of the sentence imposed and any moneys which by operation of
23 law are to be paid by the defendant in consequence of the conviction, and other probation
24 services for persons convicted in such court and placed on probation. The final contract
25 negotiated by the judge with the private probation entity shall be attached to the approval
26 by the governing authority of the municipality or consolidated government to privatize
27 probation services as an exhibit thereto. In addition to any other fine, fee, or amount
28 required by law or court order, the minimum supervision fee which shall be imposed as
29 a condition of probation under any such contract shall be \$50.00 per each month under
30 supervision.

31 (2) The judge of the municipal court of any municipality or consolidated government of
32 a municipality and county of this state, with the approval of the governing authority of
33 that municipality or consolidated government, is authorized to establish a probation
34 system to provide probation supervision, counseling, collection services for all moneys
35 to be paid by a defendant according to the terms of the sentence imposed and any moneys
36 which by operation of law are to be paid by the defendant in consequence of the

conviction, and other probation services for persons convicted in such court and placed on probation.

(i) Probation supervision directed pursuant to this Code section for felony offenses shall be authorized only for a violation of the following nonviolent felony offenses:

(1) Code Section 3-3-23, relating to furnishing alcoholic beverages to minors;

(2) Code Section 3-3-27, relating to illegal possession or manufacture of alcoholic beverages;

(3) Code Section 16-2-20, relating to acting as a party or accessory to a crime;

(4) Code Section 16-6-20, relating to bigamy;

(5) Code Section 16-6-21, relating to marrying a bigamist;

(6) Code Section 16-7-21, relating to criminal trespass;

(7) Code Section 16-7-22, relating to criminal damage to property;

(8) Code Section 16-7-24, relating to criminal interference with government property;

(9) Code Section 16-7-26, relating to vandalism to a place of worship;

(10) Code Section 16-8-2, relating to theft by taking;

(11) Code Section 16-8-3, relating to theft by deception;

(12) Code Section 16-8-4, relating to theft by conversion;

(13) Code Section 16-8-5, relating to theft of services;

(14) Code Section 16-8-6, relating to theft of lost property;

(15) Code Section 16-8-7, relating to theft by receiving stolen property;

(16) Code Section 16-8-8, relating to theft by receiving property stolen in other state;

(17) Code Section 16-8-9, relating to theft by transporting stolen property into this state;

(18) Code Section 16-8-13, relating to theft of trade secrets;

(19) Code Section 16-8-14, relating to theft by shoplifting;

(20) Code Section 16-8-15, relating to theft by conversion of payments made for real property improvements;

(21) Code Section 16-8-16, relating to theft by extortion;

(22) Code Section 16-8-18, relating to entering a motor vehicle with intent to commit theft;

(23) Code Section 16-8-20, relating to theft of livestock;

(24) Code Section 16-8-60, relating to unauthorized distribution of recorded devices or media;

(25) Code Section 16-8-83, relating to using a facility to salvage parts from a stolen motor vehicle;

(26) Code Section 16-9-1, relating to forgery;

(27) Code Section 16-9-2, relating to forgery in the second degree;

(28) Code Section 16-9-4, relating to altering an identification document;

- 1 (29) Code Section 16-9-20, relating to deposit account fraud;
- 2 (30) Code Section 16-9-31, relating to financial transaction card theft;
- 3 (31) Code Section 16-9-32, relating to forgery of a financial transaction card;
- 4 (32) Code Section 16-9-33, relating to financial transaction card fraud;
- 5 (33) Code Section 16-9-35, relating to receiving goods and services fraudulently
6 obtained;
- 7 (34) Code Section 16-9-37, relating to illegal use of a financial transaction card;
- 8 (35) Code Section 16-9-39, relating to telecommunications fraud;
- 9 (36) Code Section 16-9-53, relating to damaging, destroying, or secreting property to
10 defraud another;
- 11 (37) Code Section 16-9-58, relating to failure to pay for natural products;
- 12 (38) Code Section 16-9-93, relating to computer crimes;
- 13 (39) Code Section 16-9-121, relating to identity fraud;
- 14 (40) Code Section 16-10-1, relating to abuse of office;
- 15 (41) Code Section 16-10-2, relating to bribery of a public official;
- 16 (42) Code Section 16-10-4, relating to improper influence of legislative action;
- 17 (43) Code Section 16-10-5, relating to improper influence of a government official;
- 18 (44) Code Section 16-10-6, relating to government officials improperly selling to
19 government officials;
- 20 (45) Code Section 16-10-8, relating to false certifications;
- 21 (46) Code Section 16-10-20, relating to stealing, falsifying or altering public documents;
- 22 (47) Code Section 16-10-21, relating to conspiracy to defraud the state;
- 23 (48) Code Section 16-10-22, relating to conspiracy to restrain free competition;
- 24 (49) Code Section 16-10-23, relating to impersonating a public officer or employee;
- 25 (50) Code Section 16-10-28, relating to transmitting a false public alarm;
- 26 (51) Code Section 16-10-70, relating to perjury;
- 27 (52) Code Section 16-10-71, relating to false swearing;
- 28 (53) Code Section 16-10-72, relating to subornation of perjury or false swearing;
- 29 (54) Code Section 16-10-73, relating to impersonating another in a legal proceeding;
- 30 (55) Code Section 16-10-90, relating to compounding a crime;
- 31 (56) Code Section 16-10-91, relating to embracery;
- 32 (57) Code Section 16-10-92, relating to acceptance by a witness of a bribe;
- 33 (58) Code Section 16-10-93, relating to influencing witnesses;
- 34 (59) Code Section 16-10-94, relating to tampering with evidence;
- 35 (60) Code Section 16-10-96, relating to impersonating a witness;
- 36 (61) Code Section 16-11-14, relating to false swearing;
- 37 (62) Code Section 16-11-62, relating to eavesdropping;

- 1 (63) Code Section 16-11-63, relating to possession, sale, and distribution of an
2 eavesdropping device;
- 3 (64) Code Section 16-11-108, relating to the misuse of a firearm or archery tackle while
4 hunting;
- 5 (65) Code Section 16-11-129, relating to the alteration of a pistol or revolver license;
- 6 (66) Code Section 16-12-1, relating to contributing to the delinquency, deprivation, or
7 unruliness of a minor;
- 8 (67) Code Section 16-12-22, relating to commercial gambling;
- 9 (68) Code Section 16-12-28, relating to communicating gambling information;
- 10 (69) Code Section 16-12-33, relating to bribery of a contestant;
- 11 (70) Code Section 16-12-34, relating to soliciting or accepting a bribe;
- 12 (71) Code Section 16-12-37, relating to dogfighting;
- 13 (72) Code Section 16-12-62, relating to bingo;
- 14 (73) Code Section 16-12-124, relating to the removal of baggage and cargo from a public
15 transit vehicle or from a public terminal;
- 16 (74) Code Section 16-13-30, relating to purchase, possession, manufacture, distribution,
17 or sale of controlled substances or marijuana; provided, however, that only convictions
18 for possession shall be included;
- 19 (75) Code Section 16-13-30.3, relating to possession of substances containing ephedrine,
20 pseudoephedrine, and phenylpropanolamine;
- 21 (76) Code Section 16-13-32, relating to possession of drug related material;
- 22 (77) Code Section 16-13-32.3, relating to using communication facility to violate the
23 Georgia Controlled Substances Act;
- 24 (78) Code Section 16-13-33, relating to an attempt or conspiracy to commit a controlled
25 substance offense;
- 26 (79) Code Section 16-13-76, relating to an illegal attempt to obtain dangerous drugs;
- 27 (80) Code Section 16-13-78.2, relating to transaction of counterfeit substance;
- 28 (81) Code Section 16-13-79, relating to violation of the Dangerous Drug Act;
- 29 (82) Code Section 16-15-4, relating to participation in a gang;
- 30 (83) Code Section 19-3-3, relating to intermarriage to a close relative;
- 31 (84) Code Section 19-8-24, relating to an unlawful advertisement to adopt a child;
- 32 (85) Code Section 27-1-1, et seq., relating to violations of the game and fish laws;
- 33 (86) Code Section 40-3-90, relating to altering a car title;
- 34 (87) Code Section 40-5-58, relating to driving after being declared a habitual violator;
- 35 (88) Code Section 40-6-1, relating to violations of the motor vehicle code;
- 36 (89) Code Section 40-6-394, relating to injury by vehicle;
- 37 (90) Code Section 40-6-395, relating to fleeing or eluding a police officer;

1 (91) Code Section 48-11-8, relating to sale and possession of cigarettes without a tax
2 stamp;

3 (92) Code Section 48-11-28, relating to tampering with a metering machine and
4 counterfeit stamps; or

5 (93) Code Section 50-27-1, et seq., relating to lottery violations."

6 **SECTION 2.**

7 This Act shall become effective on July 1, 2007, and shall apply only to those offenses
8 committed on or after that date.

9 **SECTION 3.**

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