

House Bill 1116

By: Representative Barnard of the 166th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 9 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated,
2 relating to probation management, so as to modify certain provisions relating to the
3 "Probation Management Act of 2004"; to provide for related matters; to provide an effective
4 date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 9 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to
8 probation management, is amended in Code Section 42-8-153, relating to administrative
9 sanctions as an alternative to judicial modification or revocation of probation, as follows:
10 "42-8-153.

11 (a) The department is authorized to establish by rules and regulations a system of
12 administrative sanctions as an alternative to judicial modifications or revocations for
13 probationers who violate the terms and conditions of the sentencing options system
14 established under this article. The department may not, however, sanction probationers for
15 violations of special conditions of probation or general conditions of probation for which
16 the sentencing judge has expressed an intention that such violations be heard by the court
17 pursuant to Code Section 42-8-34.1.

18 (b) The department shall only impose restrictions which are equal to or less restrictive than
19 the initial sanction cap set by the sentencing judge.

20 (c) The administrative sanctions which may be imposed by the department are as follows,
21 from most restrictive to least restrictive:

22 (1) Probation detention center or residential substance abuse treatment facility;

23 (2) Probation boot camp;

24 (3) Probation diversion center;

25 (4) Intensive probation;

26 (5) ~~Options system~~ Department day reporting center;

- 1 (6) Electronic monitoring;
 2 (7) Community service; or
 3 (8) Probation supervision.

4 (d) The department is authorized to order offenders sanctioned to options listed in
 5 paragraphs (1) through (3) of subsection (c) of this Code section to be held in the local jail
 6 until transported to the designated facility."

7 **SECTION 2.**

8 Said article is further amended in Code Section 42-8-154, relating to preliminary hearings,
 9 as follows:

10 "42-8-154.

11 Whenever an options system probationer is arrested on a warrant for an alleged violation
 12 of probation, an informal preliminary hearing shall be held within a reasonable time not to
 13 exceed 15 days. However, a preliminary hearing is not required if the probationer is not
 14 under arrest on a warrant or if the probationer has signed a waiver of a preliminary hearing
 15 or if the administrative hearing referred to in Code Section 42-8-155 will be held within
 16 15 days of arrest."

17 **SECTION 3.**

18 Said article is further amended in subsection (e) of Code Section 42-8-155, relating to
 19 hearings regarding violations, as follows:

20 "42-8-155.

21 ~~(e) An options system probationer may at any time waive a hearing and voluntarily accept~~
 22 ~~the sanctions proposed by the department. All forms reflecting the findings, imposition of~~
 23 ~~sanctions, or waiver of a hearing entered by the department hearing officer shall be filed~~
 24 ~~with the clerk of the superior court having jurisdiction over the defendant."~~

25 **SECTION 4.**

26 Said article is further amended in Code Section 42-8-156, relating to the finality of the
 27 hearing officer's decision, as follows:

28 "42-8-156.

29 (a) The hearing officer's decision shall be final unless the options system probationer files
 30 for review with the senior hearing officer. The request for review shall be filed within 15
 31 days of the issuance of the department's decision. The request for review shall not stay the
 32 department's decision. The senior hearing officer shall issue a response within seven days
 33 of receipt of the review request.

1 (b) The senior hearing officer's decision shall be final unless the options system
 2 probationer files an appeal in the sentencing court. Such appeal shall name the
 3 commissioner as defendant and shall be filed within 30 days of the issuance of the decision
 4 by the ~~department~~ senior hearing officer.

5 ~~(b)~~(c) This appeal shall be first reviewed by the judge upon the record. At the judge's
 6 discretion, a de novo hearing may be held on the decision. The filing of the appeal shall
 7 not stay the department's decision.

8 ~~(c)~~(d) Where the sentencing judge does not act on the appeal within 30 days of the date of
 9 the filing of the appeal, the department's decision shall be affirmed by operation of law."

10 **SECTION 5.**

11 Said article is further amended in Code Section 42-8-158, relating to application of the article
 12 only in counties with certified options system day reporting centers, as follows:

13 "42-8-158.

14 This article shall only apply in ~~counties that have an options system day reporting center~~
 15 ~~certified by the department~~ judicial circuits where the department has allocated certified
 16 hearing officers."

17 **SECTION 6.**

18 Said article is further amended by repealing Code Section 42-8-160, relating to the repeal of
 19 the article, which reads as follows:

20 "42-8-160.

21 This article shall be repealed in its entirety on June 30, 2008."

22 **SECTION 7.**

23 This Act shall become effective on June 15, 2008.

24 **SECTION 8.**

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