

The House Committee on State Institutions and Property offers the following substitute to HB 1116:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated,
2 relating to conditions of detention, so as to increase the minimum reimbursement rate paid
3 to counties for housing state inmates; to change certain provisions relating to transmittal of
4 information on convicted persons and place of detention; to change the provision that allows
5 convicted persons to remain in local jails under certain circumstances; to amend Article 9 of
6 Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to probation
7 management, so as to modify certain provisions relating to the "Probation Management Act
8 of 2004"; to provide for related matters; to provide an effective date; to repeal conflicting
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 3 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to
13 conditions of detention, is amended by revising subsection (c) of Code Section 42-5-51,
14 relating to jurisdiction over certain misdemeanor offenders, designation of place of
15 confinement of inmates, and reimbursement of counties for housing state inmates, as follows:
16 "(c) After proper documentation is received from the clerk of the court, the department
17 shall have 15 days to transfer an inmate under sentence to the place of confinement. If the
18 inmate is not transferred within the 15 days, the department will reimburse the county, in
19 a sum not less than ~~\$7.50~~ \$25.00 per day per inmate and in such ~~an~~ additional amount as
20 may be appropriated for this purpose by the General Assembly, for the cost of the
21 incarceration, commencing 15 days after proper documentation is received by the
22 department from the clerk of the court. The reimbursement provisions of this Code section
23 shall only apply to payment for the incarceration of felony inmates available for transfer
24 to the department, except inmates under death sentence awaiting transfer after their initial
25 trial, and shall not apply to inmates who were incarcerated under the custody of the
26 commissioner at the time they were returned to the county jail for trial on additional

1 charges or returned to the county jail for any other purposes, including for the purpose of
2 a new trial."

3 **SECTION 2.**

4 Said article is further amended by revising subsection (d) of Code Section 42-5-50, relating
5 to transmittal of information on convicted persons and place of detention, as follows:

6 ~~"(d) The department shall not be required to assume the custody of those inmates who have
7 been convicted and sentenced prior to January 1, 1983, and because their conviction is
8 under appeal have not been transferred to the custody of the department, until July 1, 1983.~~

9 The state shall pay for each ~~such~~ inmate not transferred to the custody of the department,
10 including inmates not transferred pursuant to subsection (c) of this Code section, the per
11 diem rate specified by subsection (c) of Code Section 42-5-51 for each day the inmate
12 remains in the custody of the county beginning 15 days after the department receives the
13 notice provided by subsection (a) of this Code section ~~on or after January 1, 1983."~~

14 **SECTION 3.**

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

18 "42-8-153.

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

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

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

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

31 (2) Probation boot camp;

32 (3) Probation diversion center;

33 ~~(5)~~(4) ~~Options system~~ Department of Corrections day reporting center;

34 ~~(4)~~(5) Intensive probation;

35 (6) Electronic monitoring;

1 (7) Community service; or

2 (8) Probation supervision."

3 **SECTION 4.**

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

6 "42-8-154.

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

13 **SECTION 5.**

14 Said article is further amended in Code Section 42-8-155, relating to hearings regarding
15 violations, by adding a new subsection to read as follows:

16 "(f) Official forms of the department for the recording of the findings, imposition of
17 sanctions, or waiver of a hearing signed by the department hearing officer shall be filed
18 with the clerk of the superior court having jurisdiction over the defendant."

19 **SECTION 6.**

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

22 "42-8-156.

23 (a) The hearing officer's decision shall be final unless the options system probationer files
24 for review with the senior hearing officer. The request for review shall be filed within 15
25 days of the issuance of the department's decision. The request for review shall not stay the
26 department's decision. The senior hearing officer shall issue a response within seven days
27 of receipt of the review request.

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

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

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

3 **SECTION 7.**

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

6 "42-8-158.

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

10 **SECTION 8.**

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

13 "42-8-160.

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

15 **SECTION 9.**

16 Sections 1 and 2 of this Act shall become effective on July 1, 2008. The remaining sections
17 of this Act shall become effective on June 15, 2008.

18 **SECTION 10.**

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