

The House Committee on Judiciary, Non-civil offers the following substitute to HB 336:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated,
2 relating to procedure for sentencing and imposition of punishment, so as to provide for
3 punishment for 24-month misdemeanors and 36-month misdemeanors; to amend Chapter 5
4 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, so as to
5 change certain provisions relating to clinical evaluations and substance abuse treatment
6 programs for certain offenders; to change certain provisions relating to reinstatement of
7 licenses suspended for driving under the influence of alcohol or drugs and red stripe on
8 licenses of repeat offenders, so as to correct a cross-reference; to amend Code Section
9 40-6-391 of the Official Code of Georgia Annotated, relating to driving under the influence
10 of alcohol, drugs, or other intoxicating substances, so as to substantially revise the
11 punishment provisions related to driving under the influence of alcohol, drugs, or other
12 intoxicating substances; to amend Code Section 42-4-7 of the Official Code of Georgia
13 Annotated, relating to maintenance of inmate records by the sheriff and earned-time
14 allowances, so as to eliminate allowances for earned-time credits in cases involving second
15 or subsequent violations of Code Section 40-6-391; to amend Title 16 of the Official Code
16 of Georgia Annotated, relating to crimes and offenses, so as to revise the definition of the
17 term felony; to provide for related matters; to provide for an effective date and applicability;
18 to repeal conflicting laws; and for other purposes.

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

20 **SECTION 1.**

21 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to
22 procedure for sentencing and imposition of punishment, is amended by revising subsection
23 (b) of Code Section 17-10-3.1, relating to punishment for violations of Code Section
24 40-6-391, as follows:

25 "(b) Any confinement of a person pursuant to a sentence to a period of imprisonment under
26 Code Section 40-6-391 upon conviction for violating subsection (k) of said Code section

1 shall be served in a county jail, if such person is punished as for a misdemeanor and such
2 sentence is not made concurrent to a felony sentence requiring actual imprisonment in an
3 institution supervised by the Department of Corrections; provided, however, that for the
4 first such violation such person shall be kept segregated from all offenders other than those
5 confined for violating subsection (k) of Code Section 40-6-391."

6 SECTION 2.

7 Said article is further amended by adding two new Code sections to read as follows:

8 "17-10-4.1.

9 (a) A defendant who is convicted of an offense which is punishable as a 24-month
10 misdemeanor shall be punished by a fine not to exceed \$5,000.00 or by confinement in the
11 county or other jail, county correctional institution, or such other places as counties may
12 provide for maintenance of county inmates, for a term not to exceed 24 months, or both;
13 provided, however, that a defendant convicted of an offense punishable as a 24-month
14 misdemeanor, which offense was committed by an inmate within the confines of a state
15 correctional institution and sentenced to confinement as a result of such offense, or a
16 defendant convicted of an offense punishable as a 24-month misdemeanor, which sentence
17 is made concurrent to a felony sentence imposing actual imprisonment in an institution
18 supervised by the Department of Corrections, shall be sentenced to confinement under the
19 jurisdiction of the Board of Corrections in a state correctional institution or such other
20 institution as the Department of Corrections may direct for a term which shall not exceed
21 24 months. In all cases imposing a sentence pursuant to this Code section, the sentencing
22 court shall retain jurisdiction to amend, modify, alter, suspend, or probate such sentences
23 as set forth in subsection (f) of Code Section 17-10-1; provided, however, that in no
24 instance shall a sentence imposed under this Code section be modified in such a manner
25 as to reduce any mandatory sentence or to increase the amount of fine or the term of
26 confinement.

27 (b) Except as provided in paragraph (8) of subsection (c) of Code Section 40-6-391, a
28 person sentenced for a 24-month misdemeanor shall be eligible for not more than four days
29 per month earned-time allowance.

30 (c) This Code section shall apply only to those offenses punishable by a 24-month
31 misdemeanor sentence and only where specific reference is made to the term '24-month
32 misdemeanor' in the punishment provisions of the applicable Code section; provided,
33 however, that in all respects, except for punishment, a 24-month misdemeanor shall be
34 regarded as a misdemeanor.

35 (d) In all 24-month misdemeanor cases in which, upon conviction, a six-month sentence
36 or less is imposed, it is within the authority and discretion of the sentencing judge to allow

1 the sentence to be served on weekends by weekend confinement or during the nonworking
2 hours of the defendant. A weekend shall commence and shall end in the discretion of the
3 sentencing judge, and the nonworking hours of the defendant shall be determined in the
4 discretion of the sentencing judge; provided, however, that the judge shall retain plenary
5 control of the defendant at all times during the sentence period. A weekend term shall be
6 counted as serving two days of the full sentence. Confinement during the nonworking
7 hours of a defendant during any day may be counted as serving a full day of the sentence.

8 (e) The Department of Corrections shall lack jurisdiction to supervise 24-month
9 misdemeanor offenders, except when the sentence is made concurrent to a felony sentence
10 or when the sentence is accepted pursuant to Code Section 42-9-71. Except as provided
11 in subsection (a) of this Code section and this subsection, the Department of Corrections
12 shall lack jurisdiction to confine 24-month misdemeanor offenders.

13 (f) Punishment under this Code section shall not be considered a felony for any purpose.

14 17-10-4.2.

15 (a) A defendant who is convicted of an offense which is punishable as a 36-month
16 misdemeanor shall be punished by a fine not to exceed \$5,000.00 or by confinement in the
17 county or other jail, county correctional institution, or such other places as counties may
18 provide for maintenance of county inmates, for a term not to exceed 36 months, or both;
19 provided, however, that a defendant convicted of an offense punishable as a 36-month
20 misdemeanor, which offense was committed by an inmate within the confines of a state
21 correctional institution and sentenced to confinement as a result of such offense, or a
22 defendant convicted of an offense punishable as a 36-month misdemeanor, which sentence
23 is made concurrent to a felony sentence imposing actual imprisonment in an institution
24 supervised by the Department of Corrections, shall be sentenced to confinement under the
25 jurisdiction of the Board of Corrections in a state correctional institution or such other
26 institution as the Department of Corrections may direct for a term which shall not exceed
27 36 months. In all cases imposing a sentence pursuant to this Code section, the sentencing
28 court shall retain jurisdiction to amend, modify, alter, suspend, or probate such sentences
29 as set forth in subsection (f) of Code Section 17-10-1; provided, however, that in no
30 instance shall a sentence imposed under this Code section be modified in such a manner
31 as to reduce any mandatory sentence or to increase the amount of fine or the term of
32 confinement.

33 (b) Except as provided in paragraph (8) of subsection (c) of Code Section 40-6-391, a
34 person sentenced for a 36-month misdemeanor shall be eligible for not more than four days
35 per month earned-time allowance.

1 (c) This Code section shall apply only to those offenses punishable by a 36-month
 2 misdemeanor sentence and only where specific reference is made to the term '36-month
 3 misdemeanor' in the punishment provisions of the applicable Code section; provided,
 4 however, that in all respects except for punishment a 36-month misdemeanor shall be
 5 regarded as a misdemeanor.

6 (d) In all 36-month misdemeanor cases in which, upon conviction, a six-month sentence
 7 or less is imposed, it is within the authority and discretion of the sentencing judge to allow
 8 the sentence to be served on weekends by weekend confinement or during the nonworking
 9 hours of the defendant. A weekend shall commence and shall end in the discretion of the
 10 sentencing judge, and the nonworking hours of the defendant shall be determined in the
 11 discretion of the sentencing judge; provided, however, that the judge shall retain plenary
 12 control of the defendant at all times during the sentence period. A weekend term shall be
 13 counted as serving two days of the full sentence. Confinement during the nonworking
 14 hours of a defendant during any day may be counted as serving a full day of the sentence.

15 (e) The Department of Corrections shall lack jurisdiction to supervise 36-month
 16 misdemeanor offenders, except when the sentence is made concurrent to a felony sentence
 17 or when the sentence is accepted pursuant to Code Section 42-9-71. Except as provided
 18 in subsection (a) of this Code section or this subsection, the Department of Corrections
 19 shall lack jurisdiction to confine 36-month misdemeanor offenders.

20 (f) Punishment under this Code section shall not be considered a felony for any purpose."

21 SECTION 3.

22 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
 23 is amended by revising Code Section 40-5-63.1, relating to clinical evaluation and substance
 24 abuse treatment programs for certain offenders, as follows:

25 "40-5-63.1.

26 In addition to any and all other conditions of license reinstatement, issuance, or restoration
 27 under Code Section 40-5-58, 40-5-62, or 40-5-63, any person with two or more convictions
 28 ~~of violation of~~ for violating Code Section 40-6-391 ~~within five years, as measured from the~~
 29 ~~dates of previous arrests for which convictions were obtained to the date of the current~~
 30 ~~arrest for which a conviction is obtained~~, shall be required to undergo a clinical evaluation
 31 and, if ~~indicated by~~ recommended as a result of such evaluation, ~~must~~ shall complete a
 32 substance abuse treatment program; prior to such license reinstatement, issuance, or
 33 restoration; provided, however, that such evaluation and treatment shall be at such person's
 34 expense except as otherwise provided by Code Section 37-7-120. Acceptable proof of
 35 completion of such a program ~~must~~ shall be submitted to the department prior to license
 36 reinstatement, issuance, or restoration. For purposes of this Code section, a plea of nolo

1 upon a third or subsequent conviction thereof, be guilty of a high and aggravated
2 misdemeanor and shall be punished as follows:

3 ~~(1) First conviction with no conviction of and no plea of nolo contendere accepted to a~~
4 ~~charge of violating this Code section within the previous five years, as measured from the~~
5 ~~dates of previous arrests for which convictions were obtained or pleas of nolo contendere~~
6 ~~were accepted to the date of the current arrest for which a conviction is obtained or a plea~~
7 ~~of nolo contendere is accepted:~~

8 (A) A fine of not less than \$300.00 ~~nor~~ and not more than \$1,000.00, which fine shall
9 not, except as provided in subsection (g) of this Code section, be subject to suspension,
10 stay, or probation; provided, however, that the judge may suspend up to one-half of the
11 fine imposed under this paragraph conditioned upon the person undergoing treatment
12 in a substance abuse treatment program as defined in Code Section 40-5-1;

13 (B) A period of imprisonment of not less fewer than ten days ~~nor~~ and not more than 12
14 months, ~~which period of imprisonment may, at the sole discretion of the judge, be~~
15 ~~suspended, stayed, or probated, except that if the offender's alcohol concentration at the~~
16 ~~time of the offense was 0.08 grams or more;~~ provided, however, that the judge may
17 suspend, stay, or probate all but 24 hours of any term of imprisonment imposed under
18 this subparagraph paragraph, and such 24 hours of actual imprisonment shall not be
19 eligible for home arrest;

20 (C) ~~Not less than 40 hours of community~~ Community service, ~~except that for a~~
21 ~~conviction for violation of subsection (k) of this Code section where the person's~~
22 ~~alcohol concentration at the time of the offense was less than 0.08 grams, as follows:~~

23 (i) If the conviction is for a violation of paragraph (5) of subsection (a) of this Code
24 section or if the conviction is for a violation of paragraph (1), (2), (3), or (4) of
25 subsection (a) of this Code section the period of community service shall be not less
26 fewer than 20 30 hours and not more than 60 hours; or

27 (ii) If the conviction is for a violation of subsection (k) of this Code section,
28 paragraph (6) of subsection (a) of this Code section, or paragraph (1), (2), (3), or (4)
29 of subsection (a) of this Code section the period of community service shall be not
30 fewer than 20 hours and not more than 40 hours;

31 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by~~
32 ~~the Department of Driver Services.~~ The sponsor of any such program shall provide
33 written notice of ~~such~~ the department's approval of the program to the person upon
34 enrollment in the program; ~~and~~

35 (E) A clinical evaluation as defined in Code Section 40-5-1 and if recommended as a
36 result of such evaluation, completion of a substance abuse treatment program as defined
37 in Code Section 40-5-1; and

1 ~~(E)~~(F) If the defendant person is sentenced to a period of imprisonment for ~~less~~ fewer
 2 than 12 months, a period of probation of 12 months less any days during which the
 3 defendant person is actually incarcerated; imprisoned or confined by home arrest.

4 (2) Every person convicted of violating subsection (a) or (k) of this Code section shall,
 5 upon a For the second conviction ~~within a five-year period of time, as measured from the~~
 6 ~~dates of previous arrests for which convictions were obtained or pleas of nolo contendere~~
 7 ~~were accepted to the date of the current arrest for which a conviction is obtained or a plea~~
 8 ~~of nolo contendere is accepted thereof, be guilty of a 24-month misdemeanor and shall~~
 9 be punished in accordance with Code Section 17-10-4.1 and as follows:

10 (A) A fine of not less than ~~\$600.00~~ nor \$750.00 and not more than ~~\$1,000.00~~
 11 \$5,000.00, which fine shall not, except as provided in subsection (g) of this Code
 12 section, be subject to suspension, stay, or probation;

13 (B) A period of imprisonment of not ~~less~~ fewer than 90 days ~~nor~~ and not more than ~~12~~
 14 24 months. The judge shall probate at least a portion of such term of imprisonment, in
 15 accordance with subparagraph (F) of this paragraph, thereby subjecting the offender to
 16 the provisions of Article 7 of Chapter 8 of Title 42 and to such other terms and
 17 conditions as the judge may impose; provided, however, that ~~the offender shall be~~
 18 required to serve not less than 72 hours of actual incarceration;

19 (i) Upon a second conviction of violating subsection (a) or (k) of this Code section
 20 occurring within five years, as measured from the dates of previous arrests for which
 21 convictions were obtained to the date of the current arrest for which the conviction is
 22 obtained, the judge may suspend, stay, or probate all but 120 hours of any term of
 23 imprisonment imposed under this paragraph, and such 120 hours of actual
 24 imprisonment shall not be eligible for home arrest;

25 (ii) Upon a second conviction of violating paragraph (5) of subsection (a) of this
 26 Code section or violating paragraph (1), (2), (3), or (4) of subsection (a) of this Code
 27 section occurring outside a five-year period of time, as measured from the dates of
 28 previous arrests for which convictions were obtained to the date of the current arrest
 29 for which the conviction is obtained, the judge may suspend, stay, or probate all but
 30 96 hours of any term of imprisonment imposed under this paragraph, and such 96
 31 hours of actual imprisonment shall not be eligible for home arrest; and

32 (iii) Upon a second conviction of violating subsection (k) of this Code section,
 33 paragraph (6) of subsection (a) of this Code section, or paragraph (1), (2), (3), or (4)
 34 of subsection (a) of this Code section occurring outside a five-year period of time, as
 35 measured from the dates of previous arrests for which convictions were obtained to
 36 the date of the current arrest for which the conviction is obtained, the judge may
 37 suspend, stay, or probate all but 72 hours of any term of imprisonment imposed under

1 this paragraph, and such 72 hours of actual imprisonment shall not be eligible for
 2 home arrest;

3 (C) ~~Not less~~ fewer than 30 days of community service; provided, however, that if a
 4 person is sentenced to serve at least 120 hours of actual imprisonment, which is not
 5 served as home arrest, the judge may suspend all but ten days of community service;

6 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by~~
 7 ~~the Department of Driver Services.~~ The sponsor of any such program shall provide
 8 written notice of ~~such~~ the department's approval of the program to the person upon
 9 enrollment in the program;

10 (E) ~~Undergoing a~~ A clinical evaluation as defined in Code Section 40-5-1 and, if
 11 ~~indicated by~~ recommended as a result of such evaluation, completion of a substance
 12 abuse treatment program as defined in Code Section 40-5-1; and

13 (F) If the person is sentenced to a period of imprisonment for fewer than 24 months,
 14 a ~~A~~ period of probation of ~~12~~ 24 months less any days during which the ~~defendant~~
 15 person is actually incarcerated; or imprisoned or confined by home arrest.

16 (3) Every person convicted of violating subsection (a) or (k) of this Code section shall,
 17 upon a ~~For the third or subsequent conviction thereof, be guilty of a 36-month~~
 18 misdemeanor and shall be punished in accordance with Code Section 17-10-4.2 and as
 19 provided for in paragraph (4) or (5) of this subsection, as applicable.

20 (4) Every person convicted of violating subsection (a) or (k) of this Code section, upon
 21 a third conviction thereof, occurring within a ~~five-year~~ ten-year period of time, as
 22 measured from the dates of previous arrests for which ~~convictions were~~ a conviction was
 23 obtained or ~~pleas a plea~~ a plea of nolo contendere ~~were~~ was accepted to the date of the current
 24 arrest for which a conviction is obtained or a plea of nolo contendere is accepted, shall
 25 be punished as follows:

26 (A) A fine of not less than \$1,000.00 and not more than \$5,000.00, which fine shall
 27 not, except as provided in subsection (g) of this Code section, be subject to suspension,
 28 stay, or probation;

29 (B) A ~~mandatory~~ period of imprisonment of not less fewer than ~~120 days~~ 12 months
 30 ~~nor and not~~ more than ~~12~~ 36 months; provided, however, that the judge may suspend,
 31 stay, or probate all but 120 days of any term of imprisonment imposed under this
 32 paragraph, and the judge may allow 60 of such 120 days of actual imprisonment to be
 33 served on home arrest. The judge shall probate at least a portion of such term of
 34 imprisonment, in accordance with subparagraph (F) of this paragraph, thereby
 35 subjecting the offender to the provisions of Article 7 of Chapter 8 of Title 42 and to
 36 such other terms and conditions as the judge may impose; ~~provided, however, that the~~
 37 ~~offender shall be required to serve not less than 15 days of actual incarceration;~~

1 (C) Not ~~less~~ fewer than 30 ~~60~~ days of community service;

2 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program ~~approved by~~
3 ~~the Department of Driver Services~~. The sponsor of any such program shall provide
4 written notice of ~~such~~ the department's approval of the program to the person upon
5 enrollment in the program;

6 (E) ~~Undergoing a~~ A clinical evaluation as defined in Code Section 40-5-1 and, if
7 ~~indicated by~~ recommended as a result of such evaluation, completion of a substance
8 abuse treatment program as defined in Code Section 40-5-1; and

9 (F) A period of probation of ~~12~~ 36 months less any days during which the ~~defendant~~
10 person is actually ~~incarcerated~~ imprisoned or confined by home arrest.

11 (5) Every person convicted of violating subsection (a) or (k) of this Code section, upon
12 a third conviction thereof, occurring outside a ten-year period of time, as measured from
13 the dates of previous arrests for which a conviction was obtained or a plea of nolo
14 contendere was accepted to the date of the current arrest for which a conviction is
15 obtained or a plea of nolo contendere is accepted, shall be punished as follows:

16 (A) A fine of not less than \$1,000.00 and not more than \$5,000.00, which fine shall
17 not, except as provided in subsection (g) of this Code section, be subject to suspension,
18 stay, or probation;

19 (B) A period of imprisonment of not fewer than 12 months and not more than 36
20 months; provided, however, that the judge may suspend, stay, or probate all but 60 days
21 of any term of imprisonment imposed under this paragraph, and none of such 60 days
22 of imprisonment may be served on home arrest. The judge shall probate at least a
23 portion of such term of imprisonment, in accordance with subparagraph (F) of this
24 paragraph, thereby subjecting the offender to the provisions of Article 7 of Chapter 8
25 of Title 42 and to such other terms and conditions as the judge may impose;

26 (C) Not fewer than 30 days of community service;

27 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program. The sponsor
28 of any such program shall provide written notice of the department's approval of the
29 program to the person upon enrollment in the program;

30 (E) A clinical evaluation as defined in Code Section 40-5-1 and, if recommended as
31 a result of such evaluation, completion of a substance abuse treatment program as
32 defined in Code Section 40-5-1; and

33 (F) A period of probation of 36 months less any days during which the person is
34 actually imprisoned or confined by home arrest.

35 (6) Every person convicted of violating subsection (a) or (k) of this Code section shall,
36 upon a fourth or subsequent conviction thereof, be guilty of a felony and shall be
37 punished as follows:

1 (A) A fine of not less than \$1,000.00 and not more than \$5,000.00, which fine shall
2 not, except as provided in subsection (g) of this Code section, be subject to suspension,
3 stay, or probation;

4 (B) A period of imprisonment of not less than one year and not more than five years;
5 provided, however, that the judge may suspend, stay, or probate all but one year of any
6 term of imprisonment imposed under this paragraph. The judge shall probate at least
7 a portion of such term of imprisonment, in accordance with subparagraph (F) of this
8 paragraph, thereby subjecting the offender to the provisions of Article 7 of Chapter 8
9 of Title 42 and to such other terms and conditions as the judge may impose;

10 (C) Not fewer than 60 days of community service; provided, however, that if a
11 defendant is sentenced to serve three years of actual imprisonment, the judge may
12 suspend the community service;

13 (D) Completion of a DUI Alcohol or Drug Use Risk Reduction Program. The sponsor
14 of any such program shall provide written notice of the department's approval of the
15 program to the person upon enrollment in the program;

16 (E) A clinical evaluation as defined in Code Section 40-5-1 and, if recommended as
17 a result of such evaluation, completion of a substance abuse treatment program as
18 defined in Code Section 40-5-1; and

19 (F) A period of probation of five years less any days during which the person is
20 actually imprisoned.

21 (7) If a person has been convicted of violating subsection (k) of this Code section where
22 such person's alcohol concentration at the time of the offense was 0.08 gram or more, and
23 such person is subsequently convicted of violating subsection (a) of this Code section,
24 such person shall be punished by applying the applicable level or grade of conviction
25 specified in this subsection such that the previous conviction of violating subsection (k)
26 of this Code section shall be treated as a previous conviction of violating subsection (a)
27 of this Code section.

28 (8) The mandatory minimum punishment for any person sentenced pursuant to this
29 subsection shall not allow such person to be eligible for any form of pardon, parole, or
30 early release administered by the State Board of Pardons and Paroles or for any
31 earned-time, early release, work release, leave, or any other sentence-reducing measures
32 under programs administered by the Department of Corrections, by the sheriff of any
33 county of this state, or by any political subdivision of this state, the effect of which would
34 be to reduce the sentence imposed pursuant to this subsection; provided, however, that
35 the periods of imprisonment set forth in this subsection shall not apply to any violation
36 of this Code section if, as part of the person's sentence, he or she is participating for the
37 first time and has never before participated in either a drug court program for substance

1 abuse established pursuant to Code Section 15-1-15 or a substantially similar program
 2 which has been approved by the court.

3 (9) For the purpose of imposing a sentence under this subsection, a plea of nolo
 4 contendere or an adjudication of delinquency based on a violation of this Code section
 5 shall constitute a conviction.

6 (10) For purposes of determining the number of prior convictions or pleas of nolo
 7 contendere pursuant to the provisions of this subsection, only those offenses for which
 8 a conviction or a plea of nolo contendere is obtained on or after July 1, 2003, shall be
 9 considered; provided, however, that nothing in this subsection shall be construed as
 10 limiting or modifying in any way administrative proceedings or sentence enhancement
 11 provisions under Georgia law, including, but not limited to, provisions relating to
 12 punishment of recidivist offenders pursuant to Title 17.

13 (11) As used in this subsection, the term 'home arrest' shall have the same meaning as
 14 set forth in Code Section 42-1-8. The sentencing court shall determine if the person is
 15 a suitable candidate for the home arrest program subject to the eligibility requirements
 16 set forth in subsection (d) of Code Section 42-1-8. The punishment provisions set forth
 17 in subsection (e) of Code Section 42-1-8 shall apply to an offender who is allowed home
 18 arrest. Any wages earned by the person in home arrest under this paragraph may, upon
 19 order of the court, be paid to the director or administrator of the home arrest program
 20 after standard payroll deductions required by federal or state law have been withheld.
 21 Distribution of such wages shall be made for the purposes set forth in paragraphs (1)
 22 through (5) of subsection (f) of Code Section 42-1-8."

23 SECTION 7.

24 Code Section 42-4-7 of the Official Code of Georgia Annotated, relating to maintenance of
 25 inmate records by the sheriff and earned-time allowances, is amended by revising subsection
 26 (b) as follows:

27 "(b)(1) The sheriff, chief jailer, warden, or other officer designated by the county as
 28 custodian of inmates confined as county inmates for probation violations of felony
 29 offenses or as provided in subsection (a) of Code Section 17-10-3 may award earned-time
 30 allowances to such inmates based on institutional behavior. Earned-time allowances shall
 31 not be awarded which exceed one-half of the period of confinement imposed, except that
 32 the sheriff or other custodian may authorize the award of not more than four days' credit
 33 for each day on which an inmate does work on an authorized work detail; provided,
 34 however, that such increased credit for performance on a work detail shall not apply to
 35 an inmate who is ~~incarcerated~~ imprisoned for:

1 (A) A second or subsequent offense of driving under the influence under Code Section
 2 40-6-391 ~~within a five-year period of time, as measured from the date of any previous~~
 3 ~~arrest for which a conviction was obtained or a plea of nolo contendere was accepted~~
 4 ~~to the date of the current arrest for which a conviction is obtained or a plea of nolo~~
 5 ~~contendere is accepted;~~

6 (B) A misdemeanor of a high and aggravated nature; or

7 (C) A crime committed against a family member as defined in Code Section 19-13-1.

8 (2) While an inmate sentenced to confinement as a county inmate is in custody as a
 9 county inmate, the custodian of such inmate may award an earned-time allowance
 10 consistent with this subsection and subsection (b) of Code Section 17-10-4 based on the
 11 institutional behavior of such inmate while in custody as a county inmate.

12 (3) An inmate sentenced to confinement as a county inmate shall be released at the
 13 expiration of his or her sentence less the time deducted for earned-time allowances."

14 SECTION 8.

15 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 16 amended by revising paragraph (5) of Code Section 16-1-3, relating to definitions for the
 17 title, as follows:

18 "(5) 'Felony' means a crime punishable by death, by imprisonment for life, or by
 19 imprisonment for more than 12 months but shall not include a crime punishable by a
 20 24-month misdemeanor or 36-month misdemeanor."

21 SECTION 9.

22 Said title is further amended by revising paragraph (10) of Code Section 16-7-80, relating
 23 to definitions for the article, as follows:

24 "(10) 'Felony' means any offense punishable by imprisonment for a term of one year or
 25 more, and includes conviction by a court-martial under the Uniform Code of Military
 26 Justice for an offense which would constitute a felony under the laws of the United States
 27 but shall not include a crime punishable by a 24-month misdemeanor or 36-month
 28 misdemeanor. A conviction of an offense under the laws of a foreign nation shall be
 29 considered a felony for the purposes of this article if the conduct giving rise to such
 30 conviction would have constituted a felony under the laws of this state or of the United
 31 States if committed within the jurisdiction of this state or the United States at the time of
 32 such conduct."

SECTION 10.

Said title is further amended by revising paragraph (1) of subsection (a) of Code Section 16-11-131, relating to possession of firearms by convicted felons, as follows:

"(1) 'Felony' means any offense punishable by imprisonment for a term of one year or more and includes conviction by a court-martial under the Uniform Code of Military Justice for an offense which would constitute a felony under the laws of the United States but shall not include a crime punishable by a 24-month misdemeanor or 36-month misdemeanor."

SECTION 11.

Said title is further amended by revising paragraph (1) of subsection (a) of Code Section 16-11-133, relating to minimum periods of confinement for persons who have prior convictions, as follows:

"(1) 'Felony' means any offense punishable by imprisonment for a term of one year or more and includes conviction by a court-martial under the Uniform Code of Military Justice for an offense which would constitute a felony under the laws of the United States but shall not include a crime punishable by a 24-month misdemeanor or 36-month misdemeanor."

SECTION 12.

Said title is further amended by revising paragraph (2) of subsection (a) of Code Section 16-12-1, relating to contributing to the delinquency, unruliness, or deprivation of a minor, as follows:

"(2) 'Felony' means any act which constitutes a felony under the laws of this state, the laws of any other state of the United States, or the laws of the United States but shall not include a crime punishable by a 24-month misdemeanor or 36-month misdemeanor."

SECTION 13.

This Act shall become effective on July 1, 2008, and shall be applied to offenses occurring on or after July 1, 2008; provided, however, that for purposes of determining the number of prior convictions or pleas of nolo contendere pursuant to the provisions of Code Section 40-6-391, only those offenses for which a conviction or a plea of nolo contendere is obtained on or after July 1, 2003, shall be considered.

SECTION 14.

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