

House Bill 1116 (COMMITTEE SUBSTITUTE) (AM)

By: Representative Barnard of the 166<sup>th</sup>

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

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**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.  
18 Subject to the appropriation of funds by the General Assembly, if the inmate is not  
19 transferred within the 15 days, the department will reimburse the county, in a sum not less  
20 than ~~\$7.50~~ \$25.00 per day per inmate and in such ~~an~~ additional amount as may be  
21 appropriated for this purpose by the General Assembly, for the cost of the incarceration,  
22 commencing 15 days after proper documentation is received by the department from the  
23 clerk of the court. The reimbursement provisions of this Code section shall only apply to  
24 payment for the incarceration of felony inmates available for transfer to the department,  
25 except inmates under death sentence awaiting transfer after their initial trial, and shall not  
26 apply to inmates who were incarcerated under the custody of the commissioner at the time

1 they were returned to the county jail for trial on additional charges or returned to the county  
2 jail for any other purposes, including for the purpose of 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 Subject to the appropriation of funds by the General Assembly, the state shall pay for each  
10 such inmate not transferred to the custody of the department, including inmates not  
11 transferred pursuant to subsection (c) of this Code section, the per diem rate specified by  
12 subsection (c) of Code Section 42-5-51 for each day the inmate remains in the custody of  
13 the county beginning 15 days after the department receives the notice provided by  
14 subsection (a) of this Code section ~~on or after January 1, 1983.~~"

15 **SECTION 3.**

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

19 "42-8-153.

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

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

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

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

32 (2) Probation boot camp;

33 (3) Probation diversion center;

34 ~~(5)~~(4) ~~Options system~~ Department of Corrections day reporting center;

35 ~~(4)~~(5) Intensive probation;

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

4 **SECTION 4.**

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

7 "42-8-154.

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

14 **SECTION 5.**

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

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

20 **SECTION 6.**

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

23 "42-8-156.

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

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

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

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

6 **SECTION 7.**

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

9 "42-8-158.

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

13 **SECTION 8.**

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

16 "42-8-160.

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

18 **SECTION 9.**

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

21 **SECTION 10.**

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