

House Bill 1343

By: Representatives Powell of the 171st, Smith of the 131st, Chambers of the 81st, Martin of the 47th, and Collins of the 27th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 42-8-34 of the Official Code of Georgia Annotated, relating to
2 hearings for and determinations of probation in criminal cases, so as to change the amount
3 of certain fees charged to probationers; to change provisions relating to the waiver of such
4 fees under certain circumstances and sanctions for failure to pay fees; to provide for the
5 mandatory nature of fees charged to defendants sentenced to day reporting centers as a
6 condition of probation; to provide for related matters; to provide for an effective date and
7 applicability; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 42-8-34 of the Official Code of Georgia Annotated, relating to hearings for and
11 determinations of probation in criminal cases, is amended by revising subsection (d) as
12 follows:

13 "(d)(1) In every case that a court of this state or any other state sentences a defendant to
14 probation or any pretrial release or diversion program under the supervision of the
15 department, in addition to any fine or order of restitution imposed by the court, there shall
16 be imposed a probation fee as a condition of probation, release, or diversion in the
17 amount equivalent to ~~\$23.00~~ \$30.00 per each month under supervision, and in addition,
18 a one-time fee of ~~\$50.00~~ \$100.00 where such defendant was convicted of any felony.
19 The probation fee may be waived or amended after administrative process by the
20 department ~~and approval of the court, or upon determination by the court,~~ as to the undue
21 hardship, inability to pay, or any other extenuating factors which prohibit collection of
22 the fee.; ~~provided, however, that the imposition of~~ The sentencing court shall impose
23 sanctions for failure to pay fees ~~shall be within the discretion of the court through judicial~~
24 process or hearings unless payment has been waived by the department. Probation fees
25 shall be waived on probationers incarcerated or detained in a departmental or other
26 confinement facility which prohibits employment for wages. All probation fees collected

27 by the department shall be paid into the general fund of the state treasury, except as
28 provided in subsection (f) of Code Section 17-15-13, relating to sums to be paid into the
29 Georgia Crime Victims Emergency Fund. Any fees collected by the court under this
30 paragraph shall be remitted not later than the last day of the month after such fee is
31 collected to the Georgia Superior Court Clerks' Cooperative Authority for deposit into
32 the general fund of the state treasury.

33 (2) In addition to any other provision of law, any person convicted of a violation of Code
34 Section 40-6-391 or subsection (b) of Code Section 16-13-2 who is sentenced to
35 probation or a suspended sentence by a municipal, magistrate, probate, recorder's,
36 mayor's, state, or superior court shall also be required by the court to pay a one-time fee
37 of \$25.00. The clerk of court, or if there is no clerk, the person designated to collect
38 fines, fees, and forfeitures for such court, shall collect such fee and remit the same not
39 later than the last day of the month after such fee is collected to the Georgia Superior
40 Court Clerks' Cooperative Authority for deposit into the general fund of the state treasury.

41 (3) In addition to any fine, fee, restitution, or other amount ordered, the sentencing court
42 ~~may also~~ shall impose as a condition of probation for felony criminal defendants
43 sentenced to a day reporting center an additional charge, not to exceed \$10.00 per day for
44 each day such defendant is required to report to a day reporting center; provided,
45 however, that no fee shall be imposed or collected if the defendant is unemployed or has
46 been found indigent by the sentencing court. The charges required by this paragraph
47 shall be paid by the probationer directly to the department. Funds collected by the
48 department pursuant to this subsection shall only be used by the department in the
49 maintenance and operation of the day reporting center program."

50 **SECTION 2.**

51 This Act shall become effective on July 1, 2010, and shall apply with respect to sentences
52 entered on or after that effective date.

53 **SECTION 3.**

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