

House Bill 619

By: Representative Cox of the 102<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to  
2 probation, so as to repeal the creation and powers and duties of the County and Municipal  
3 Probation Advisory Council; to provide that private companies contracting for probation  
4 services shall register with the Secretary of State and pay an annual registration fee; to  
5 provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to probation, is  
9 amended by revising subsection (a) of Code Section 42-8-100, relating to agreements  
10 between chief judges of county courts or judges of municipal courts and corporations,  
11 enterprises, or agencies for probation services, as follows:

12 "(a) As used in this article, the term:

13 (1) ~~'Council' means the County and Municipal Probation Advisory Council created under~~  
14 ~~Code Section 42-8-101.~~

15 ~~(2)~~ 'Private probation officer' means a probation officer employed by a private  
16 corporation, private enterprise, private agency, or other private entity that provides  
17 probation services.

18 ~~(3)~~(2) 'Probation officer' means a person employed to supervise defendants placed on  
19 probation by a county or municipal court for committing an ordinance violation or  
20 misdemeanor."

21 **SECTION 2.**

22 Said chapter is further amended by repealing Code Section 42-8-101, relating to the County  
23 and Municipal Probation Advisory Council and designating said Code section as reserved.

24

**SECTION 3.**

25 Said chapter is further amended by revising Code Section 42-8-102, relating to uniform  
26 professional standards and uniform contract standards, as follows:

27 "42-8-102.

28 (a) The uniform professional standards contained in this subsection shall be met by any  
29 person employed as and using the title of a private probation officer or probation officer.  
30 Any such person shall be at least 21 years of age at the time of appointment to the position  
31 of private probation officer or probation officer and must have completed a standard  
32 two-year college course or have four years of law enforcement experience; provided,  
33 however, that any person employed as a private probation officer as of July 1, 1996, and  
34 who had at least six months of experience as a private probation officer or any person  
35 employed as a probation officer by a county, municipality, or consolidated government as  
36 of March 1, 2006, shall be exempt from such college requirements. Every private  
37 probation officer shall receive an initial 40 hours of orientation upon employment and shall  
38 receive 20 hours of continuing education per annum ~~as approved by the council~~, provided  
39 that the 40 hour initial orientation shall not be required of any person who has successfully  
40 completed a probation or parole officer basic course of training certified by the Peace  
41 Officer Standards and Training Council or any private probation officer who has been  
42 employed by a private probation corporation, enterprise, or agency for at least six months  
43 as of July 1, 1996, or any person employed as a probation officer by a county, municipality,  
44 or consolidated government as of March 1, 2006. In no event shall any person convicted  
45 of a felony be employed as a probation officer or utilize the title of probation officer.

46 (b) The uniform contract standards contained in this subsection shall apply to all private  
47 probation contracts executed under the authority of Code Section 42-8-100. The terms of  
48 any such contract shall state, at a minimum:

- 49 (1) The extent of the services to be rendered by the private corporation or enterprise  
50 providing probation supervision;
- 51 (2) Any requirements for staff qualifications, to include those contained in this Code  
52 section as well as any surpassing those contained in this Code section;
- 53 (3) Requirements for criminal record checks of staff ~~in accordance with the rules and~~  
54 ~~regulations established by the council~~;
- 55 (4) Policies and procedures for the training of staff ~~that comply with rules and~~  
56 ~~regulations promulgated by the council~~;
- 57 (5) Bonding of staff and liability insurance coverage;
- 58 (6) Staffing levels and standards for offender supervision, including frequency and type  
59 of contacts with offenders;
- 60 (7) Procedures for handling the collection of all court ordered fines, fees, and restitution;

- 61 (8) Procedures for handling indigent offenders to ensure placement of such indigent  
62 offenders irrespective of the ability to pay;
- 63 (9) Circumstances under which revocation of an offender's probation may be  
64 recommended;
- 65 (10) Reporting and record-keeping requirements; and
- 66 (11) Default and contract termination procedures.
- 67 (c) The uniform contract standards contained in this subsection shall apply to all counties,  
68 municipalities, and consolidated governments that enter into agreements with a judge to  
69 provide probation services under the authority of Code Section 42-8-100. The terms of any  
70 such agreement shall state at a minimum:
- 71 (1) The extent of the services to be rendered by the local governing authority providing  
72 probation services;
- 73 (2) Any requirements for staff qualifications, to include those contained in this Code  
74 section;
- 75 (3) Requirements for criminal record checks of staff ~~in compliance with the rules and~~  
76 ~~regulations established by the council;~~
- 77 (4) Policies and procedures for the training of staff ~~that comply with the rules and~~  
78 ~~regulations established by the council;~~
- 79 (5) Staffing levels and standards for offender supervision, including frequency and type  
80 of contacts with offenders;
- 81 (6) Procedures for handling the collection of all court ordered fines, fees, and restitution;
- 82 (7) Circumstances under which revocation of an offender's probation may be  
83 recommended;
- 84 (8) Reporting and record-keeping requirements; and
- 85 (9) Default and agreement termination procedures.
- 86 ~~(d) The council shall review the uniform professional standards and uniform contract and~~  
87 ~~agreement standards contained in subsections (a), (b), and (c) of this Code section and shall~~  
88 ~~submit a report on its findings to the General Assembly. The council shall submit its initial~~  
89 ~~report on or before January 1, 2007, and shall continue such reviews every two years~~  
90 ~~thereafter. Nothing contained in such report shall be considered to authorize or require a~~  
91 ~~change in the standards without action by the General Assembly having the force and effect~~  
92 ~~of law. This report shall provide information which will allow the General Assembly to~~  
93 ~~review the effectiveness of the minimum professional standards and, if necessary, to revise~~  
94 ~~these standards. This subsection shall not be interpreted to prevent the council from~~  
95 ~~making recommendations to the General Assembly prior to its required review and report."~~

96 **SECTION 4.**

97 Said chapter is further amended by revising Code Section 42-8-103, relating to quarterly  
 98 report to judge and council, as follows:

99 "42-8-103.

100 (a) Any private corporation, private enterprise, or private agency contracting to provide  
 101 probation services or any county, municipality or consolidated government entering into  
 102 an agreement under the provisions of this article shall provide to the judge with whom the  
 103 contract or agreement was made ~~and the council~~ a quarterly report summarizing the number  
 104 of offenders under supervision; the amount of fines, statutory surcharges, and restitution  
 105 collected; the number of offenders for whom supervision or rehabilitation has been  
 106 terminated and the reason for the termination; and the number of warrants issued during  
 107 the quarter, in such detail as the ~~council~~ judge may require.

108 (b) All records of any private corporation, private enterprise, or private agency contracting  
 109 to provide services or of any county, municipality, or consolidated government entering  
 110 into an agreement under the provisions of this article shall be open to inspection upon the  
 111 request of the affected county, municipality, consolidated government, court, or the  
 112 Department of Audits and Accounts, ~~or the council or its designee."~~

113 **SECTION 5.**

114 Said chapter is further amended by revising subsection (a) of Code Section 48-8-106, relating  
 115 to confidentiality of records, as follows:

116 "(a) All reports, files, records, and papers of whatever kind relative to the supervision of  
 117 probationers by a private corporation, private enterprise, or private agency contracting  
 118 under the provisions of this article or by a county, municipality, or consolidated  
 119 government providing probation services under this article are declared to be confidential  
 120 and shall be available only to the affected county, municipality, or consolidated  
 121 government, the judge handling a particular case, or the Department of Audits and  
 122 Accounts, ~~or the council or its designee."~~

123 **SECTION 6.**

124 Said chapter is further amended by revising Code Section 42-8-107, relating to registration  
 125 with the council, as follows:

126 "42-8-107.

127 (a)(~~t~~) All private corporations, private enterprises, and private agencies contracting or  
 128 offering to contract for probation services shall register annually with the ~~council~~ Secretary  
 129 of State before entering into or renewing any contract to provide services. The information  
 130 included in such registration shall include the name of the corporation, enterprise, or

131 agency, its principal business address and telephone number, the name of its agent for  
 132 communication, and ~~other information in such detail as the council may require~~ a notarized  
 133 statement that the corporation or enterprise is in compliance with the provisions of Code  
 134 Section 42-8-102. An annual ~~No~~ registration fee of \$500.00 shall be required.

135 ~~(2)(b)~~ Any private corporation, private enterprise, or private agency required to register  
 136 under the provisions of ~~paragraph (1)~~ subsection (a) of this ~~subsection~~ Code section which  
 137 fails or refuses to do so shall be subject to revocation of any existing contracts, ~~in addition~~  
 138 ~~to any other fines or sanctions imposed by the council.~~

139 ~~(b)(1)~~ All counties, municipalities, and consolidated governments agreeing or offering  
 140 to agree to establish a probation system shall register with the council before entering into  
 141 an agreement with the court to provide services. ~~The information included in such~~  
 142 ~~registration shall include the name of the county, municipality, or consolidated~~  
 143 ~~government, the principal business address and telephone number, a contact name for~~  
 144 ~~communication with the council, and other information in such detail as the council may~~  
 145 ~~require. No registration fee shall be required.~~

146 ~~(2)~~ Any county, municipality, or consolidated government required to register under the  
 147 provisions of ~~paragraph (1)~~ of this subsection which fails or refuses to do so shall be  
 148 subject to revocation of existing agreements, ~~in addition to any other sanctions imposed~~  
 149 ~~by the council.~~

150 (c) The Department of Audits is authorized to audit any registered private corporation or  
 151 agency providing probation services under this Code section to ensure compliance with the  
 152 uniform professional standards provided in Code Section 42-8-102. The Department of  
 153 Audits shall submit its findings to the Secretary of State. The Secretary of State may, upon  
 154 determining that an entity is not in compliance with such uniform professional standards,  
 155 terminate the entity's registration."

## 156 SECTION 7.

157 Said chapter is further amended by revising subsection (b) of Code Section 42-8-108, relating  
 158 to the applicability of the article to contractors for probation services, as follows:

159 "(b) The standards contained in this subsection shall be met by all counties, municipalities,  
 160 or consolidated governments entering into written agreements to provide probation services  
 161 to any court under the authority of Code Section 42-8-100 on or after July 1, 2006. Any  
 162 county, municipality, or consolidated government which fails to meet the standards  
 163 established in this subsection on or after July 1, 2006, shall not be eligible to provide  
 164 probation services. All counties, municipalities, or consolidated governments which enter  
 165 into written agreements to provide probation services under the authority of Code Section  
 166 42-8-100 on or after July 1, 2006, shall:

- 167 (1) Register with the ~~council~~ Secretary of State;
- 168 (2) Meet the requirements of subsection (c) of Code Section 42-8-102; and
- 169 (3) Employ at least one person who is responsible for the direct supervision of probation
- 170 officers employed by the governing authority who shall have at least five years'
- 171 experience in corrections, parole, or probation services; provided, however, that the
- 172 five-year experience requirement shall not apply to any such supervisor employed by a
- 173 county, municipality, or consolidated government which was engaged in the provision
- 174 of probation services on April 15, 2006."

175 **SECTION 8.**

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