

The House Committee on State Institutions and Property offers the following substitute to SB 65:

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Article 2 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated,  
2 relating to the state-wide probation system, so as to change provisions relating to the  
3 sentencing and confinement of certain defendants in a probation detention center; to permit  
4 credit for time served in confinement while awaiting confinement in a probation detention  
5 center; to clarify certain provisions relating to the suspension of a probated sentence; to  
6 provide for related matters; to provide for an effective date and applicability; to repeal  
7 conflicting laws; and for other purposes.

8           BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9           **SECTION 1.**

10 Article 2 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to the  
11 state-wide probation system, is amended by revising subsection (a) of Code Section  
12 42-8-35.4, relating to confinement in a probation detention center, as follows:

13       "(a) In addition to any other terms and conditions of probation provided for in this article,  
14 the trial judge may require that a defendant convicted of a felony and sentenced to a period  
15 of not less than one year on probation or a defendant who has been previously sentenced  
16 to probation for a forcible misdemeanor as defined in paragraph (7) of Code Section 16-1-3  
17 or a misdemeanor of a high and aggravated nature and has violated probation or other  
18 probation alternatives and is subsequently sentenced to a period of not less than one year  
19 on probation shall complete satisfactorily, as a condition of that probation, a program of  
20 confinement in a probation detention center. Probationers so sentenced will be required  
21 to serve ~~a~~ the period of confinement ~~as~~ specified in the court order, ~~which confinement~~  
22 ~~period shall be computed from the date of initial confinement in the probation detention~~  
23 ~~center."~~

24

**SECTION 2.**

25 Said article is further amended by revising subsection (a) of Code Section 42-8-36, relating  
26 to the duty of a probationer to inform probation supervisor of residence or whereabouts,  
27 violations, and unpaid moneys, as follows:

28 "(a)(1) Any other provision of this article to the contrary notwithstanding, it shall be the  
29 duty of a probationer, as a condition of probation, to keep his or her probation supervisor  
30 informed as to his or her residence. Upon the recommendation of the probation  
31 supervisor, the court may also require, as a condition of probation and under such terms  
32 as the court deems advisable, that the probationer keep the probation supervisor informed  
33 as to his or her whereabouts. The failure of a probationer to report to his or her probation  
34 supervisor as directed or a return of non est inventus or other return to a warrant, for the  
35 violation of the terms and conditions of probation, that the probationer cannot be found  
36 in the county that appears from the records of the probation supervisor to be the  
37 probationer's county of residence shall automatically suspend the running of the probated  
38 sentence until the probationer shall personally report to the probation supervisor, is taken  
39 into custody in this state, or is otherwise available to the court; and such period of time  
40 shall not be included in computing creditable time served on probation or as any part of  
41 the time that the probationer was sentenced to serve. The effective date of the tolling of  
42 the sentence shall be the date that the officer returns the warrant showing non est  
43 inventus. Any officer authorized by law to issue or serve warrants may return the warrant  
44 for the absconded probationer showing non est inventus.

45 (2) In addition to the provisions of paragraph (1) of this subsection, if the probation  
46 supervisor submits ~~an a sworn~~ affidavit to the court stating that a probationer has  
47 ~~absconded and cannot be found failed to report to his or her probation supervisor as~~  
48 ~~directed,~~ the running of the probated sentence shall be suspended effective on the date  
49 such affidavit is submitted to the court ~~and continuing. The tolling of the probationer's~~  
50 ~~sentence shall continue~~ until the probationer shall personally report to the probation  
51 supervisor, is taken into custody in this state, or is otherwise available to the court; and  
52 such period of time shall not be included in computing creditable time served on  
53 probation or as any part of the time that the probationer was sentenced to serve."

54

**SECTION 3.**

55 Section 1 of this Act shall become effective on July 1, 2009, and shall apply to probationers  
56 sentenced on or after such date. Section 2 of this Act shall become effective upon its  
57 approval by the Governor or upon its becoming law without such approval.

58

**SECTION 4.**

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