

The Senate State Institutions and Property Committee offered the following substitute to HB 344:

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 probation hearings and determinations, referral of cases to probation supervisors, probation
3 or suspension of a sentence, payment of a fine or costs, disposition of a defendant prior to
4 a hearing, continuing jurisdiction, transferal of probation supervision, and probation fees, so
5 as to authorize a sentencing court to impose an additional charge on a felony defendant
6 sentenced to a day reporting center; to provide for related matters; to provide for an effective
7 date and 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 probation
11 hearings and determinations, referral of cases to probation supervisors, probation or
12 suspension of a sentence, payment of a fine or costs, disposition of a defendant prior to a
13 hearing, continuing jurisdiction, transferal of probation supervision, and probation fees, is
14 amended by revising subsection (d) to read as follows:

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

26 waived on probationers incarcerated or detained in a departmental or other confinement
27 facility which prohibits employment for wages. All probation fees collected by the
28 department shall be paid into the general fund of the state treasury, except as provided in
29 subsection (f) of Code Section 17-15-13, relating to sums to be paid into the Georgia
30 Crime Victims Emergency Fund. Any fees collected by the court under this paragraph
31 shall be remitted not later than the last day of the month after such fee is collected to the
32 Georgia Superior Court Clerks' Cooperative Authority for deposit into the general fund
33 of the state treasury.

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

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

51 **SECTION 2.**

52 This Act shall become effective on July 1, 2009, and shall apply to persons convicted on or
53 after such date.

54 **SECTION 3.**

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