

House Bill 1104

By: Representatives Pruett of the 144<sup>th</sup>, Ramsey of the 72<sup>nd</sup>, Cole of the 125<sup>th</sup>, Glanton of the 76<sup>th</sup>, and Abrams of the 84<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to  
2 juvenile proceedings, so as to provide for graduated sanctions and secure detention for  
3 children who violate the terms of their probation; to define terms; to provide for an  
4 administrative procedure for hearing alleged violations of probation; to change provisions  
5 relating to dispositions for delinquent children; to provide for related matters; to provide for  
6 an effective date and applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile  
10 proceedings, is amended by adding a new Code section to read as follows:

11 "15-11-40.1.

12 (a) For purposes of this Code section, the term:

13 (1) 'Department' means the Department of Juvenile Justice.

14 (2) 'Graduated sanctions' means:

15 (A) Verbal and written warnings;

16 (B) Increased restrictions and reporting requirements;

17 (C) Community service;

18 (D) Referral to treatment and counseling programs in the community;

19 (E) Weekend programming;

20 (F) Electronic monitoring, as such term is defined in Code Section 42-8-151;

21 (G) Curfew;

22 (H) An intensive supervision program;

23 (I) A home confinement program; or

24 (J) A secure probation sanctions program.

25 (3) 'Hearing officer' means a county juvenile probation office employee or department  
26 employee, as applicable, who has been selected and appointed by the department or

27 county juvenile probation office, as applicable, to hear cases alleging violations of  
28 probation for administrative sanctioning. A hearing officer shall not be a probation  
29 officer who has direct supervision over the child who is the subject of the hearing.

30 (4) 'Probation management program' means a special condition of probation that includes  
31 graduated sanctions.

32 (5) 'Secure probation sanctions program' means secure confinement of seven, 14, or 30  
33 days.

34 (b) In addition to any other terms or conditions of probation provided for under this  
35 chapter, the court may require that children who receive a disposition of probation be  
36 ordered to a probation management program.

37 (c) Where a child has been ordered to a probation management program, the court shall  
38 retain jurisdiction throughout the period of the probated sentence and may modify or  
39 revoke any part of a probated sentence as provided in Code Section 15-11-40.

40 (d)(1) The department in jurisdictions where the department is authorized to provide  
41 probation supervision, or the county juvenile probation office in jurisdictions where  
42 probation supervision is provided directly by the county, as applicable, shall be  
43 authorized to establish rules and regulations for graduated sanctions as an alternative to  
44 judicial modifications or revocations for probationers who violate the terms and  
45 conditions of a probation management program.

46 (2) The department or county juvenile probation office, as applicable, shall not sanction  
47 probationers for violations of conditions of probation if the court has expressed an  
48 intention that such violations be heard by the court.

49 (3) If a child is on probation for a status offense or unruly act or under informal  
50 adjustment supervision pursuant to Code Section 15-11-69, graduated sanctions shall not  
51 be available.

52 (e) The department or county juvenile probation office, as applicable, shall impose only  
53 those restrictions equal to or less restrictive than the maximum sanction established by the  
54 court.

55 (f) Secure probation sanctions program criteria shall be established by the department and  
56 such program shall be available to juvenile courts provided that the department has  
57 capacity within its facilities. The secure probation sanctions program shall focus on  
58 restoring victims, holding children accountable for their actions, increasing a child's  
59 community involvement, and increasing children's competencies. The secure probation  
60 sanctions program shall offer assessment of treatment and supervision needs and aftercare  
61 planning for increased supervision and treatment upon return to the community.

62 (g)(1) When requesting the secure probation sanctions program, probation officers  
63 supervising a child under a probation management program shall provide an affidavit to  
64 the department specifying:

65 (A) The elements of the child's probation program;

66 (B) The child's failures to respond to graduated sanctions in the community; and

67 (C) The child's number of violations and the nature of each violation.

68 (2) If a probation officer fails to document the violations and specify how the child has  
69 failed to complete a probation management program, such child shall be ineligible to  
70 enter the secure probation sanctions program.

71 (3) A child may enter the secure probation sanctions program if:

72 (A) The probation officer has complied with the provisions of paragraph (1) of this  
73 subsection and the criteria set by the department for entrance into such program and the  
74 child has had three or more violations of probation; or

75 (B) A child in a probation management program and his or her parent or guardian, or  
76 a child in such program and his or her attorney, admit to three or more violations of  
77 such program and sign a waiver accepting the sanction proposed by the probation  
78 officer.

79 (4) If a child is sentenced to the secure probation sanctions program and completes all  
80 program components, such child shall be ineligible to attend the secure probation  
81 sanctions program for a future violation of a condition of the same probated sentence.

82 (h)(1) When a violation of a condition of probation occurs and the original adjudication  
83 order allows the secure probation sanctions program, a child may have an administrative  
84 hearing conducted by a hearing officer. If the hearing officer determines by a  
85 preponderance of the evidence that such child violated the conditions of probation, the  
86 probation officer shall be authorized to impose graduated sanctions. A child's failure to  
87 comply with a sanction imposed under this paragraph shall constitute another violation  
88 of probation.

89 (2) The hearing officer's decision shall be final unless such child files, within five days  
90 of the service of such decision, a written demand with the hearing officer for review of  
91 such decision. Such demand shall not stay the sanction decision. The hearing officer  
92 shall issue a response to such demand within five days of receiving such demand.

93 (3) If the hearing officer insists on the sanction, such decision shall be final unless the  
94 child files an appeal in the court that originally adjudicated the child. Such appeal shall  
95 be filed within ten days of the date of the decision of the hearing officer.

96 (4) The appeal shall first be reviewed by the court upon the record. At the court's  
97 discretion, a de novo hearing may be held on the decision. The filing of the appeal shall  
98 not stay the sanction decision.

99 (5) Where the court does not act on the appeal within 15 days of the date of the filing of  
 100 the appeal, the sanction decision shall be affirmed by operation of law."

101 **SECTION 2.**

102 Said chapter is further amended by revising subsection (b) of Code Section 15-11-66, relating  
 103 to disposition of delinquent children, as follows:

104 "(b)(1) At the conclusion of the dispositional hearing provided in subsection (a) of Code  
 105 Section 15-11-65, if the child is found to have committed a delinquent act, the court may,  
 106 in addition to any other treatment or rehabilitation, suspend the driver's license of such  
 107 child for any period not to exceed the date on which the child becomes 18 years of age  
 108 or, in the case of a child who does not have a driver's license, prohibit the issuance of a  
 109 driver's license to such child for any period not to exceed the date on which the child  
 110 becomes 18 years of age. The court shall retain the driver's license for a period of  
 111 suspension and return it to the offender at the end of such period. The court shall notify  
 112 the Department of Driver Services of any such actions taken pursuant to this subsection.

113 (2)(A) If the child is adjudicated for the commission of a delinquent act, the court may  
 114 in its discretion in those cases involving: ~~(A) a violation of probation involving another~~  
 115 ~~adjudicated delinquent act and upon the court making a finding of fact that the child has~~  
 116 ~~failed to respond to the graduated alternative sanctions set forth in paragraph (2) of this~~  
 117 ~~subsection;~~ (B) an

118 (i) An offense that would be a felony if committed by an adult; or ~~(C) an~~  
 119 (ii) An offense that would be a misdemeanor of a high and aggravated nature if  
 120 committed by an adult and involving bodily injury or harm or substantial likelihood  
 121 of bodily injury or harm, in addition to any other treatment or rehabilitation,  
 122 order the child to serve seven, 14, or up to a maximum of 30 days in a youth  
 123 development center, or after assessment and with the court's approval, in a treatment  
 124 program provided by the Department of Juvenile Justice or the juvenile court.

125 (B) A child ordered to a youth development center under this paragraph and detained  
 126 in a secured facility pending placement in the youth development center shall be given  
 127 credit for time served in the secured facility awaiting placement. ~~On and after July 1,~~  
 128 ~~2011, the maximum number of days that the court may order a child to serve in a youth~~  
 129 ~~development center under this paragraph shall be increased to 60 days.~~

130 ~~(2) The Department of Juvenile Justice, in conjunction with the Council of Juvenile~~  
 131 ~~Court Judges of Georgia, shall establish and monitor a graduated alternative sanctions~~  
 132 ~~program for children on probation. The graduated alternative sanctions program shall be~~  
 133 ~~implemented in each judicial circuit in consultation with the judge of the juvenile court.~~  
 134 ~~The graduated alternative sanctions program may include, but shall not be limited to,~~

135 ~~community service, electronic monitoring, increased reporting or intensive supervision,~~  
136 ~~home confinement, day or evening reporting centers, or treatment intervention."~~

137 **SECTION 3.**

138 This Act shall become effective on July 1, 2010, and shall apply to any child sentenced to  
139 probation on and after July 1, 2010; the former provisions of Code Section 15-11-66 shall  
140 continue to apply to any child sentenced to probation prior to July 1, 2010.

141 **SECTION 4.**

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