

House Bill 1133

By: Representatives Lunsford of the 110th and Levitas of the 82nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 18 of Title 15 of the Official Code of Georgia Annotated,
2 relating to pretrial intervention and diversion programs, so as to increase the fees for the
3 administration of the program; to provide for prosecuting attorneys to delegate supervision
4 of persons in such programs to a probation department; to amend Chapter 8 of Title 42 of the
5 Official Code of Georgia Annotated, relating to probation, so as to provide for the collection
6 of supervision fees for pretrial intervention and diversion program supervision; to provide
7 for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 4 of Chapter 18 of Title 15 of the Official Code of Georgia Annotated, relating to
11 pretrial intervention and diversion programs, is amended by revising subsections (a) and (f)
12 of Code Section 15-18-80, relating to policy and procedure, as follows:

13 "(a) The prosecuting attorneys for each judicial circuit of this state shall be authorized to
14 create and administer a Pretrial Intervention and Diversion Program. The prosecuting
15 attorney for state courts, probate courts, magistrate courts, municipal courts, and any other
16 court that hears cases involving a violation of the criminal laws of this state or ordinance
17 violations shall also be authorized to create and administer a Pretrial Intervention and
18 Diversion Program for offenses within the jurisdiction of such courts. Prosecuting
19 attorneys may delegate supervision of cases in Pretrial Intervention and Diversion
20 Programs to a probation department administered by the Department of Corrections, by
21 contract pursuant to Code Section 42-8-100, or by a political subdivision of this state."

22 "(f) The prosecuting attorney shall be authorized to assess and collect from each offender
23 who enters the program a fee not to exceed ~~\$300.00~~ \$1,000.00 for the administration of the
24 program. Any fee collected under this subsection shall be made payable to the general
25 fund of the political subdivision in which the case is being prosecuted."

26

SECTION 2.

27 Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to probation, is
 28 amended by revising paragraph (1) of subsection (d) of Code Section 42-8-34, relating to
 29 hearings and determinations and referral of cases to probation supervisors, as follows:

30 "(d)(1) In every case that a court of this state or any other state sentences a defendant to
 31 probation or any pretrial release or diversion program under the supervision of the
 32 department, in addition to any fine or order of restitution imposed by the court, there shall
 33 be imposed a probation fee as a condition of probation, release, or diversion in the
 34 amount equivalent to \$23.00 per each month under supervision, and in addition, a
 35 one-time fee of \$50.00 where such defendant was convicted of any felony. For every
 36 case that is referred for supervision by the department for Pretrial Intervention and
 37 Diversion Programs pursuant to Code Section 15-18-80, prior to sentencing, there shall
 38 be imposed a probation fee as a condition of such program in the amount of \$23.00 per
 39 each month of supervision. The probation fee may be waived or amended after
 40 administrative process by the department and approval of the court, or upon
 41 determination by the court, as to the undue hardship, inability to pay, or any other
 42 extenuating factors which prohibit collection of the fee; provided, however, that the
 43 imposition of sanctions for failure to pay fees shall be within the discretion of the court
 44 through judicial process or hearings. Probation fees shall be waived on probationers
 45 incarcerated or detained in a departmental or other confinement facility which prohibits
 46 employment for wages. All probation fees collected by the department shall be paid into
 47 the general fund of the state treasury, except as provided in subsection (f) of Code Section
 48 17-15-13, relating to sums to be paid into the Georgia Crime Victims Emergency Fund.
 49 Any fees collected by the court under this paragraph shall be remitted not later than the
 50 last day of the month after such fee is collected to the Georgia Superior Court Clerks'
 51 Cooperative Authority for deposit into the general fund of the state treasury."

52

SECTION 3.

53 Said chapter is further amended by revising subsections (g) and (h) of Code Section
 54 42-8-100, relating to jurisdiction of probation matters in ordinance violation cases and
 55 agreements between chief judges of county courts or judges of municipal courts and
 56 corporations, enterprises, or agencies for probation services, as follows:

57 "(g)(1) The chief judge of any court within the county, with the approval of the
 58 governing authority of that county, is authorized to enter into written contracts with
 59 corporations, enterprises, or agencies to provide probation supervision, counseling,
 60 collection services for all moneys to be paid by a defendant according to the terms of the
 61 sentence imposed on the defendant as well as any moneys which by operation of law are

62 to be paid by the defendant in consequence of the conviction, and other probation
63 services for persons convicted in that court and placed on probation in the county. Such
64 contracts may also provide for supervision of individuals in Pretrial Intervention and
65 Diversion Programs pursuant to Code Section 15-18-80, prior to sentencing. In no case
66 shall a private probation corporation or enterprise be charged with the responsibility for
67 supervising a felony sentence. The final contract negotiated by the chief judge with the
68 private probation entity shall be attached to the approval by the governing authority of
69 the county to privatize probation services as an exhibit thereto. The termination of a
70 contract for probation services as provided for in this subsection entered into on or after
71 July 1, 2001, shall be initiated by the chief judge of the court which entered into the
72 contract, and subject to approval by the governing authority of the county which entered
73 into the contract and in accordance with the agreed upon, written provisions of such
74 contract. The termination of a contract for probation services as provided for in this
75 subsection in existence on July 1, 2001, and which contains no provisions relating to
76 termination of such contract shall be initiated by the chief judge of the court which
77 entered into the contract, and subject to approval by the governing authority of the county
78 which entered into the contract and in accordance with the agreed upon, written
79 provisions of such contract.

80 (2) The chief judge of any court within the county, with the approval of the governing
81 authority of that county, is authorized to establish a county probation system to provide
82 probation supervision, counseling, collection services for all moneys to be paid by a
83 defendant according to the terms of the sentence imposed on the defendant as well as any
84 moneys which by operation of law are to be paid by the defendant in consequence of the
85 conviction, and other probation services for persons convicted in that court and placed
86 on probation in the county. Such system may also provide for supervision of individuals
87 in Pretrial Intervention and Diversion Programs pursuant to Code Section 15-18-80, prior
88 to sentencing.

89 (h)(1) The judge of the municipal court of any municipality or consolidated government
90 of a municipality and county of this state, with the approval of the governing authority
91 of that municipality or consolidated government, is authorized to enter into written
92 contracts with private corporations, enterprises, or agencies to provide probation
93 supervision, counseling, collection services for all moneys to be paid by a defendant
94 according to the terms of the sentence imposed and any moneys which by operation of
95 law are to be paid by the defendant in consequence of the conviction, and other probation
96 services for persons convicted in such court and placed on probation. Such contracts may
97 also provide for supervision of individuals in Pretrial Intervention and Diversion
98 Programs pursuant to Code Section 15-18-80, prior to sentencing. The final contract

99 negotiated by the judge with the private probation entity shall be attached to the approval
100 by the governing authority of the municipality or consolidated government to privatize
101 probation services as an exhibit thereto.

102 (2) The judge of the municipal court of any municipality or consolidated government of
103 a municipality and county of this state, with the approval of the governing authority of
104 that municipality or consolidated government, is authorized to establish a probation
105 system to provide probation supervision, counseling, collection services for all moneys
106 to be paid by a defendant according to the terms of the sentence imposed and any moneys
107 which by operation of law are to be paid by the defendant in consequence of the
108 conviction, and other probation services for persons convicted in such court and placed
109 on probation. Such system may also provide for supervision of individuals in Pretrial
110 Intervention and Diversion Programs pursuant to Code Section 15-18-80, prior to
111 sentencing."

112 **SECTION 4.**

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