

Senate Bill 395

By: Senators Unterman of the 45th, Goggans of the 7th, Grant of the 25th, Crosby of the 13th and Hooks of the 14th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to  
2 general court provisions, so as to create mental health court divisions; to provide for  
3 assignment of cases; to provide for planning groups and work plans; to provide for standards;  
4 to provide for staffing and expenses; to provide for completion of mental health court  
5 division programs; to provide for records, fees, grants, and donations; to provide for related  
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general court  
10 provisions, is amended by adding a new Code section to read as follows:

11 "15-1-16.

12 (a)(1) To achieve a reduction in recidivism and symptoms of mental illness among  
13 mentally ill offenders in criminal cases and to increase their likelihood of successful  
14 rehabilitation through early, continuous, and intense judicially supervised treatment, any  
15 court that has jurisdiction over a criminal case in which a defendant has a mental illness  
16 or developmental disability, or a co-occurring mental illness and substance abuse  
17 disorder, may establish a mental health court division to provide an alternative to the  
18 traditional judicial system for disposition of such cases.

19 (2) In any criminal case in which a defendant suffers from a mental illness or  
20 developmental disability, or a co-occurring mental illness and substance abuse disorder,  
21 and the defendant meets the eligibility criteria for the mental health court division, the  
22 court may assign the case to the mental health court division:

23 (A) Prior to the entry of the sentence, if the prosecuting attorney consents;

24 (B) As part of a sentence in a case; or

25 (C) Upon consideration of a petition to revoke probation.

26 (3) Each mental health court division shall establish a planning group to develop a work  
27 plan. The planning group may include the judges, prosecuting attorneys, public  
28 defenders, probation officers, and persons having expertise in the field of mental health.  
29 The work plan shall address the operational, coordination, resource, information  
30 management, and evaluation needs of the mental health court division. The work plan  
31 shall include eligibility criteria for the mental health court division. The mental health  
32 court division shall combine judicial supervision, treatment of mental health court  
33 division participants, and drug and mental health testing.

34 (4) The Judicial Council of Georgia shall adopt standards for the mental health court  
35 divisions. Each mental health court division shall adopt standards that are consistent with  
36 the standards of the Judicial Council of Georgia. The standards are to serve as a flexible  
37 framework for developing effective mental health court divisions and to provide a  
38 structure for conducting research and evaluation for program accountability. The  
39 standards are not intended to be a certification or regulatory checklist.

40 (5) The court instituting the mental health court division may request the prosecuting  
41 attorney for the jurisdiction to designate one or more prosecuting attorneys to serve in the  
42 mental health court division and may request the public defender, if any, to designate one  
43 or more assistant public defenders to serve in the mental health court division.

44 (6) The clerk of the court instituting the mental health court division or such clerk's  
45 designee shall serve as the clerk of the mental health court division.

46 (7) The court instituting the mental health court division may request probation officers  
47 and other employees of the court to perform duties for the mental health court division.  
48 Such employees shall perform duties as directed by the judges of the mental health court  
49 division.

50 (8) The court instituting the mental health court division may enter into agreements with  
51 other courts and agencies for the assignment of personnel from other courts and agencies  
52 to the mental health court division.

53 (9) Expenses for salaries, equipment, services, and supplies incurred in implementing  
54 this Code section may be paid from state funds, funds of the county or political  
55 subdivision implementing such mental health court division, federal grant funds, and  
56 funds from private donations.

57 (b)(1) Each mental health court division shall establish criteria which define the  
58 successful completion of the mental health court division program.

59 (2) If the mental health court division participant successfully completes the mental  
60 health court division program prior to the entry of judgment, the case against the mental  
61 health court division participant may be dismissed by the prosecuting attorney.

62 (3) If the mental health court division participant successfully completes the mental  
63 health court division program as part of a sentence imposed by the court, the sentence of  
64 the mental health court division participant may be reduced or modified.

65 (4) Any plea of guilty or nolo contendere entered pursuant to this Code section may not  
66 be withdrawn without the consent of the court.

67 (c) Any statement made by a mental health court division participant as part of  
68 participation in such court, or any report made by the staff of the court or program  
69 connected to the court, regarding a participant's mental health shall not be admissible as  
70 evidence against the participant in any legal proceeding or prosecution; provided, however,  
71 if the participant violates the conditions of his or her participation in the program or is  
72 terminated from the mental health court division, the reasons for the violation or  
73 termination may be considered in sanctioning, sentencing, or otherwise disposing of the  
74 participant's case.

75 (d) Nothing contained in this Code section shall be construed to permit a judge to impose,  
76 modify, or reduce a sentence below the minimum sentence required by law.

77 (e) Notwithstanding any provision of law to the contrary, mental health court division staff  
78 shall be provided, upon request, with access to all records relevant to the treatment of the  
79 mental health court division participant from any state or local government agency, except  
80 records declared confidential by Code Section 49-5-40 to which access may be obtained  
81 pursuant to Code Section 49-5-41. All records and the contents thereof shall be treated as  
82 confidential, shall not be disclosed to any person outside of the mental health court  
83 division, and shall not be subject to Article 4 of Chapter 18 of Title 50, relating to open  
84 records, or subject to subpoena, discovery, or introduction into evidence in any civil or  
85 criminal proceeding. Such records and the contents thereof shall be maintained by the  
86 mental health court division and originating court in a confidential file not available to the  
87 public.

88 (f) Any fees received by a mental health court division from a mental health court division  
89 participant as payment for mental health treatment and services shall not be considered as  
90 court costs or a fine.

91 (g) The court will have the authority to accept grants and donations and other proceeds  
92 from outside sources for the purpose of supporting the mental health court division. Any  
93 such grants, donations, or proceeds shall be retained by the mental health court division for  
94 expenses."

95 **SECTION 2.**

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