

Senate Bill 105

By: Senators Jones of the 10th, Butler of the 55th, Sims of the 12th, Tate of the 38th, Crosby of the 13th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 4A of Title 49 of the Official Code of Georgia Annotated, relating to the
2 Department of Juvenile Justice, so as to provide for parole of children committed to the
3 department for the commission of designated felony acts under certain circumstances; to
4 provide for definitions; to change provisions relating to the Department of Juvenile Justice
5 and the Board of Juvenile Justice, including powers and duties; to change provisions relating
6 to the commitment of delinquent or unruly children; to establish juvenile parole panels; to
7 provide for general duties of the Board of Juvenile Justice and commissioner of juvenile
8 justice relative to parole of certain juveniles; to provide for procedure and information to be
9 considered in determining parole; to provide for the procedure for revocations of parole,
10 preliminary hearings, and final hearings; to restrict the Governor's powers relative to granting
11 juvenile parole; to provide for annual reports; to amend Chapter 11 of Title 15 of the Official
12 Code of Georgia Annotated, relating to juvenile proceedings, so as to change provisions
13 relating to modification or vacation of orders; to change provisions relating to designated
14 felony acts; to provide for related matters; to provide for an effective date; to repeal
15 conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Chapter 4A of Title 49 of the Official Code of Georgia Annotated, relating to the Department
19 of Juvenile Justice, is amended by revising Code Section 49-4A-1, relating to definitions for
20 the chapter, as follows:

21 "49-4A-1.

22 As used in this chapter, the term:

- 23 (1) 'Board' means the Board of Juvenile Justice.
- 24 (2) 'Commissioner' means the commissioner of juvenile justice.
- 25 (3) 'Delinquent or unruly child or youth' means any person so adjudged under Article 1
- 26 of Chapter 11 of Title 15.

27 (4) 'Department' means the Department of Juvenile Justice.

28 (5) 'Designated felon' means a youth who has been committed to the department for the
 29 commission of a designated felony act.

30 (6) 'Designated felony act' shall have the same meaning as set forth in Code Section
 31 15-11-63.

32 (7) 'Panel' means the juvenile parole panel.

33 (8) 'Parole' means a conditional release from the commitment to the department which
 34 allows a designated felon to serve the remainder of his or her commitment outside of an
 35 institution or facility operated by the department, contingent upon compliance with the
 36 terms and conditions of parole as established by the panel."

37 **SECTION 2.**

38 Said chapter is further amended by revising subsection (b) of Code Section 49-4A-3, relating
 39 to the creation of the Department of Juvenile Justice, as follows:

40 "(b) The department shall provide for supervision, detention, parole, and rehabilitation of
 41 juvenile delinquents committed to the state's custody. The department shall also be
 42 authorized to operate prevention programs and to provide assistance to local public and
 43 private entities with prevention programs for juveniles at risk. Additionally, the
 44 department ~~will~~ shall be authorized to provide for specialized treatment for juvenile
 45 offenders, in lieu of commitment, who have been found to be sex offenders or drug abusers
 46 and who may have behavior disorders. The department's organization, operation, and
 47 implementation shall be based on the following:

48 (1) Development of a comprehensive continuum of service options through flexible
 49 funding to allow providers to respond to the unique needs and capabilities of individual
 50 children and families;

51 (2) Services implemented so that each child and family served can have a personal
 52 relationship with staff, providers, and workers, which staff, providers, and workers shall
 53 be trained and treated as professionals, have a range of multidisciplinary skills, and have
 54 manageable caseloads;

55 (3) Services shall be community centered and responsive to local needs with state and
 56 local and public and private entities forming cooperative partnerships that enhance
 57 informal support systems for families;

58 (4) Systems that are accountable, with desired outcomes specified, results measured and
 59 evaluated, and cost-efficient options maximized;

60 (5) Intersystem communication and collaboration that are encouraged and facilitated
 61 through coordination of systems so that gaps and unnecessary duplications in planning,
 62 funding, and providing services are eliminated;

- 63 (6) The department shall be consumer driven and responsive to the changing needs of
 64 individual communities; and
 65 (7) The department shall encourage the central location of various services whenever
 66 possible."

67 **SECTION 3.**

68 Said chapter is further amended by revising subsection (a) of Code Section 49-4A-6, relating
 69 to the Board of Juvenile Justice's rules and regulations, as follows:

70 "(a) The board shall adopt rules and regulations for the government, operation,
 71 administration, and maintenance of youth development centers and other juvenile detention
 72 facilities by the department and may also adopt such other rules and regulations for the
 73 government and operation of the department and panel as the board may deem necessary
 74 consistent with the provisions of this chapter."

75 **SECTION 4.**

76 Said chapter is further amended by revising paragraph (2) of subsection (a) of Code Section
 77 49-4A-7, relating to the powers and duties of the Department of Juvenile Justice, as follows:

78 "(2) Provide probation ~~and parole~~ and other court services for children and youth
 79 pursuant to a request from a court under Article 1 of Chapter 11 of Title 15 and to provide
 80 parole services for children and youth pursuant to a panel's granting of parole;"

81 **SECTION 5.**

82 Said chapter is further amended by revising subsection (b) of Code Section 49-4A-7, relating
 83 to the powers and duties of the Department of Juvenile Justice, by striking "and" at the end
 84 of paragraph (4), by striking the period and inserting in its place "; and" at the end of
 85 paragraph (5), and by adding a new paragraph (6) to read as follows:

86 "(6) The right to parole a child or youth if a panel determines that parole is appropriate."

87 **SECTION 6.**

88 Said chapter is further amended by revising subsections (d) through (e.1), (g), (i), and (j) of
 89 Code Section 49-4A-8, relating to commitment of delinquent or unruly children, as follows:

90 "(d)(1) When a delinquent or unruly child has been committed to the department, the
 91 department shall, under rules and regulations established by the board, forthwith examine
 92 and study the child and investigate all pertinent circumstances of his or her life and
 93 behavior. The department shall make periodic reexaminations of all delinquent or unruly
 94 children within its control, except those on release under supervision of the department.
 95 Such reexaminations may be made as frequently as the department considers desirable

96 and shall be made with respect to every child at intervals not exceeding one year. Failure
 97 of the department to examine a delinquent or unruly child committed to it or to reexamine
 98 him or her within one year of a previous examination shall not of itself entitle the child
 99 to discharge from control of the department but shall entitle the child to petition the
 100 committing court for an order of discharge or if appropriate, petition a panel for
 101 discharge pursuant to Code Section 15-11-63.1; and the court shall discharge him or her
 102 unless the department, upon due notice, satisfies the court of the necessity of further
 103 control.

104 (2) The department shall keep written records of all examinations and reexaminations,
 105 of conclusions based thereon, and of all orders concerning the disposition or treatment
 106 of every delinquent or unruly child subject to its control. Records as may be maintained
 107 by the department with respect to a delinquent or unruly child committed to the
 108 department shall not be public records but shall be privileged records and may be
 109 disclosed by direction of the commissioner pursuant to federal law in regard to
 110 disseminating juvenile criminal history records only to those persons having a legitimate
 111 interest therein; provided, however, that the commissioner shall permit the Council of
 112 Juvenile Court Judges to inspect and copy such records for the purposes of obtaining
 113 statistics on juveniles.

114 (e) Except as provided by ~~subsection (e.1) of this Code section and~~ subsection (b) of Code
 115 Section 15-11-70, when a delinquent or unruly child has been committed to the department
 116 for detention and a diagnostic study for the purpose of determining the most satisfactory
 117 plan for the child's care and treatment has been completed, the department may:

118 (1) Permit the child liberty under supervision and upon such conditions as the department
 119 may believe conducive to acceptable behavior;

120 (2) Order the child's confinement under such conditions as the department may believe
 121 best designed to serve the child's welfare and as may be in the best interest of the public;

122 (3) Order reconfinement or renewed release as often as conditions indicate to be
 123 desirable;

124 (4) Revoke or modify any order of the department affecting the child, except an order
 125 of final discharge, as often as conditions indicate to be desirable; or

126 (5) Discharge the child from control of the department pursuant to subsection (a) of Code
 127 Section 15-11-70 when it is satisfied that such discharge will best serve the child's
 128 welfare and the protection of the public.

129 (e.1)(1) When a child who has been adjudicated delinquent for the commission of a
 130 designated felony act ~~as defined in Code Section 15-11-63~~ is released from confinement
 131 or custody of the department, it shall be the responsibility of the department to provide

132 notice to any person who was the victim of the child's delinquent acts that the child is
133 being released from confinement or custody.

134 (2) As long as a good faith attempt to comply with paragraph (1) of this subsection has
135 been made, the department and employees of the department shall not be liable for
136 damages incurred by reason of the department's failure to provide the notice required by
137 paragraph (1) of this subsection.

138 (3) When a child convicted of a felony offense in a superior court is released from
139 confinement or custody of the department, the department shall provide written notice,
140 including the delinquent or designated felony act committed, to the superintendent of the
141 school system in which such child was enrolled or, if the information is known, the
142 school in which such child was enrolled or plans to be enrolled.

143 (4) As long as a good faith attempt to comply with paragraph (3) of this subsection has
144 been made, the department and employees of the department shall not be liable for
145 damages incurred by reason of the department's failure to provide notice required by
146 paragraph (3) of this subsection."

147 "(g)(1) When funds are available, the department may:

148 ~~(1)(A)~~ Establish and operate places for detention and diagnosis of all delinquent or
149 unruly children committed to it;

150 ~~(2)(B)~~ Establish and operate additional treatment and training facilities, including
151 parks, forestry camps, maintenance camps, ranches, and group residences necessary to
152 classify and handle juvenile delinquents of different ages and habits and different
153 mental and physical conditions, according to their needs; and

154 ~~(3)(C)~~ Establish ~~parole or~~ aftercare supervision to aid children given conditional
155 release to find homes and employment and otherwise to assist them to become
156 reestablished in the community and to lead socially acceptable lives.

157 (2) The department shall establish aftercare supervision to children granted parole to
158 assist them to become reestablished in the community and to lead socially acceptable
159 lives."

160 "(i)(1) A child who has been committed to the department as a delinquent or unruly child
161 for detention in a youth development center or who has been otherwise taken into custody
162 and who has escaped therefrom or who has been placed under supervision or parole and
163 broken the conditions thereof may be taken into custody without a warrant by a sheriff,
164 deputy sheriff, constable, police officer, probation officer, parole officer, or any other
165 officer of this state authorized to serve criminal process, upon a written request made by
166 an employee of the department having knowledge of the escape or of the violation of
167 conditions of supervision or parole. Before a child may be taken into custody for
168 violation of the conditions of supervision or parole, the written request mentioned above

169 ~~must~~ shall be reviewed by the commissioner or his or her designee. If the commissioner
170 or his or her designee finds that probable cause exists to believe that the child has violated
171 his or her conditions of supervision or parole, ~~he~~ the commissioner or his or her designee
172 may issue an order directing that the child be picked up and returned to custody.

173 (2) The commissioner may designate as a peace officer who is authorized to exercise the
174 power of arrest any employee of the department whose full-time duties include the
175 preservation of public order, the protection of life and property, the detection of crime,
176 or the supervision of delinquent and unruly children in its institutions, facilities, or
177 programs, or any employee who is a line supervisor of any such employee. The
178 commissioner also may designate as a peace officer who is authorized to exercise the
179 power of arrest any employee of a person or organization which contracts with the
180 department pertaining to the management, custody, care, and control of delinquent
181 children retained by the person or organization, if that employee's full-time duties include
182 the preservation of public order, the protection of life and property, the detection of
183 crime, or the supervision of delinquent and unruly children in the department's
184 institutions, facilities, or programs, or any employee who is a line supervisor of such
185 employee. The commissioner may designate one or more employees of the department
186 to investigate and apprehend delinquent and unruly children who have escaped from an
187 institution or facility or who have broken the conditions of supervision or parole;
188 provided, however, that the employees so designated shall only be those with primary
189 responsibility for the security functions of youth development centers or whose primary
190 duty consists of the apprehension of youths who have escaped from such institutions or
191 facilities or who have broken the conditions of supervision or parole. An employee of
192 the department so designated shall have the police power to investigate, to apprehend
193 such children, and to arrest any person physically interfering with the proper
194 apprehension of such children. An employee of the department so designated in the
195 investigative section of the department shall have the power to obtain a search warrant
196 for the purpose of locating and apprehending such children. Additionally, such
197 employee, while on the grounds or in the buildings of the department's institutions or
198 facilities, shall have the same law enforcement powers, including the power of arrest, as
199 a law enforcement officer of the local government with police jurisdiction over such
200 institutions or facilities. Such employee shall be authorized to carry weapons, upon
201 written approval of the commissioner, notwithstanding Code Sections 16-11-126 and
202 16-11-129. The commissioner shall also be authorized to designate any person or
203 organization with whom the department contracts for services pertaining to the
204 management, custody, care, and control of delinquent and unruly children detained by the
205 person or organization as a law enforcement unit under paragraph (7) of Code Section

206 35-8-2. Any employee or person designated under this subsection shall be considered to
 207 be a peace officer within the meaning of Chapter 8 of Title 35 and ~~must~~ shall be certified
 208 under that chapter.

209 (3) For the purposes of investigation of delinquent or unruly children who have escaped
 210 from institutions or facilities of the department or of delinquent or unruly children who
 211 are alleged to have broken the conditions of supervision or parole, the department is shall
 212 be empowered and authorized to request and receive from the Georgia Crime Information
 213 Center, established by Chapter 3 of Title 35, any information in the files of the Georgia
 214 Crime Information Center which will aid in the apprehension of such children.

215 (4) An employee designated pursuant to paragraph (2) of this subsection may take a child
 216 into custody without a warrant upon personal knowledge or written request of a person
 217 having knowledge of the escape or violation of conditions of supervision or parole, or a
 218 child may be taken into custody pursuant to Code Section 15-11-45. When taking a child
 219 into custody pursuant to this paragraph, a designated employee of the department shall
 220 have the power to use all force reasonably necessary to take the child into custody.

221 (5) The child shall be kept in custody in a suitable place designated by the department
 222 and there detained until such child may be returned to the custody of the department.

223 (6) Such taking into custody shall not be termed an arrest; provided, however, that any
 224 person taking a child into custody pursuant to this subsection shall have the same
 225 immunity from civil and criminal liability as a peace officer making an arrest pursuant
 226 to a valid warrant.

227 (j) The department shall ensure that each delinquent or unruly child it releases under
 228 supervision, parole, or otherwise has suitable clothing, transportation to his or her home
 229 or to the county in which a suitable home or employment has been found for him or her,
 230 and such an amount of money as the rules and regulations of the board may authorize.
 231 The expenditure for clothing and for transportation and the payment of money to a
 232 delinquent or unruly child released may be made from funds for support and maintenance
 233 appropriated by the General Assembly to the department or to the institution from which
 234 such child is released or from local funds."

235 **SECTION 7.**

236 Said chapter is further amended by revising subsections (b) and (e) of Code Section 49-4A-9,
 237 relating to sentence of youthful offenders, as follows:

238 "(b) Any final order of judgment by the court in the case of any such child shall be subject
 239 to such modification from time to time as the court may consider to be for the welfare of
 240 such child. No commitment of any child to any institution or other custodial agency shall
 241 deprive the court of jurisdiction to change the form of the commitment or transfer the

242 custody of the child to some other institution or agency on such conditions as the court may
 243 see fit to impose, the duty being constant upon the court to give to all children subject to
 244 its jurisdiction such oversight and control in the premises as will be conducive to the
 245 welfare of the child and the best interests of the state; provided, however, that the release
 246 or parole of any child committed to the department for detention in any of its institutions
 247 under the terms of this chapter during the period of one year from the date of commitment
 248 shall be had only with the concurrence and recommendation of the commissioner or the
 249 commissioner's designated representative; provided, further, that upon releasing or paroling
 250 any child adjudicated delinquent for the commission of a designated felony act ~~as defined~~
 251 ~~in pursuant to Code Section 15-11-63~~ 15-11-63.1 and committed to the department for
 252 detention in any of its institutions under the terms of this chapter, the department shall
 253 provide notice to any person who was the victim of the child's delinquent acts that the child
 254 is being released or paroled. As long as a good faith attempt to comply with the notice
 255 requirement of this subsection has been made, the department and employees of the
 256 department shall not be liable for damages incurred by reason of the department's failure
 257 to provide the notice required by this subsection."

258 "(e) Any child under 17 years of age who is sentenced in the superior court and committed
 259 to the department may be eligible to participate in all youth development center programs
 260 and services including community work programs, sheltered workshops, special state
 261 sponsored programs for evaluation and services under the Division of Rehabilitation
 262 Services of the Department of Labor and the Department of Behavioral Health and
 263 Developmental Disabilities, and under the general supervision of youth development center
 264 staff at special planned activities outside of the youth development center. When such a
 265 child sentenced in the superior court is approaching his or her seventeenth birthday, the
 266 department shall ~~notify the court that a further disposition of the child is necessary. The~~
 267 ~~department shall~~ provide the court with information concerning the participation and
 268 progress of the child in programs described in this subsection. The court shall review the
 269 case and determine if the child, upon becoming 17 years of age, should be placed on
 270 probation, have his or her sentence reduced, be transferred to the Department of
 271 Corrections for the remainder of the original sentence, or be subject to any other
 272 determination authorized by law."

273

SECTION 8.

274 Said chapter is further amended by revising subsections (c) and (d) of Code Section
 275 49-4A-11, relating to aiding or encouraging a child to escape, as follows:

276 "(c) Any person who shall knowingly hinder the apprehension of any child under the
 277 lawful control or custody of the department who has been placed by the department in one

278 of its institutions or facilities and who has escaped therefrom or who has been placed under
 279 supervision or parole and is alleged to have broken the conditions thereof shall be guilty
 280 of a felony and, upon conviction thereof, shall be imprisoned for not less than one nor more
 281 than five years.

282 (d) Any person who shall knowingly provide to any child under the lawful control or
 283 custody of the department a gun, pistol, or any other weapon, any intoxicating liquor, any
 284 controlled substance listed in Code Section 16-13-27 as a Schedule III controlled
 285 substance, listed in Code Section 16-13-28 as a Schedule IV controlled substance, or listed
 286 in Code Section 16-13-29 as a Schedule V controlled substance, or an immediate precursor
 287 of any such controlled substance, or any dangerous drug as defined by Code Section
 288 16-13-71, regardless of the amount, or any other harmful, hazardous, or illegal article or
 289 item which may be injurious to department personnel without the consent of the director
 290 of the institution providing care and supervision to the child or the parole officer providing
 291 parole supervision to the child shall be guilty of a felony and, upon conviction thereof, shall
 292 be imprisoned for not less than one nor more than five years."

293 SECTION 9.

294 Said chapter is further amended by adding new Code sections to read as follows:

295 "49-4A-15.

296 (a) There shall be juvenile parole panels which shall each consist of three members
 297 appointed by the commissioner. The commissioner shall determine how many panels to
 298 create, the regional location of such panels, and the frequency with which each panel will
 299 meet. The commissioner shall designate one member of each panel to act as chairperson
 300 of the panel.

301 (b) Each panel member shall serve at the pleasure of the commissioner. Panel members
 302 shall be employees of the department. Salaries for panel members shall be set by the
 303 commissioner and panel members shall be entitled to reimbursement of expenses as
 304 provided by Code Section 45-7-20.

305 (c) Clerical assistance for the panels shall be provided by a panel administrator appointed
 306 by the commissioner.

307 (d) Panels shall be charged with the duty of determining which designated felons serving
 308 commitments imposed by a juvenile court of this state may be released on parole and fixing
 309 the time and conditions thereof. The panel shall also be charged with the duty of
 310 supervising all persons placed on parole, of determining violations thereof and of taking
 311 action with reference thereto, of making such investigations as may be necessary, and of
 312 aiding parolees in securing employment. It shall be the duty of the panel personally to
 313 study the cases of those designated felons whom the panel has power to consider so as to

314 determine their ultimate fitness for such relief as the panel has power to grant. The panel
315 by an affirmative vote of a majority of its members shall have the power to grant parole.

316 49-4A-16.

317 (a) The board shall adopt, implement, and maintain a parole guidelines system for
318 determining parole action. The guidelines system shall be used in determining parole
319 actions on all designated felons. The guideline system shall be consistent with the board's
320 primary goal of protecting society and shall take into consideration the severity of the
321 current offense, the designated felon's prior juvenile court history, the designated felon's
322 conduct, and the social factors which the board has found to have value in predicting the
323 probability of further criminal behavior and successful adjustment under parole
324 supervision.

325 (b) The guidelines system required by subsection (a) of this Code section shall be adopted
326 by rules and regulations of the board. The rules and regulations shall be adopted in
327 conformity with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

328 49-4A-17.

329 (a) The board may adopt and promulgate rules and regulations touching all matters
330 including the practice and procedure in matters pertaining to paroles and remission of fines
331 and forfeitures. The rules and regulations shall contain an eligibility requirement for parole
332 which shall set forth the time when the automatic initial consideration for parole of
333 designated felons under the jurisdiction of the department shall take place and also the
334 times at which periodic reconsideration thereafter shall take place. Such consideration
335 shall be automatic, and no written or formal application shall be required; provided,
336 however, a designated felon shall be eligible for consideration for parole after the
337 expiration of one-third of the time of his or her commitment.

338 (b) All rules and regulations adopted pursuant to this Code section shall be adopted,
339 established, promulgated, amended, repealed, filed, and published in accordance with the
340 applicable provisions and procedure as set forth in Chapter 13 of Title 50, the 'Georgia
341 Administrative Procedure Act.' The courts shall take judicial notice of the rules and
342 regulations.

343 (c) For the purposes of this Code section, the words 'rules and regulations' shall have the
344 same meaning as the word 'rule,' as defined in Code Section 50-13-2, except that the words
345 'rules and regulations' shall not be construed to include the terms and conditions prescribed
346 by the panel to which a person paroled by the panel may be subjected.

347 (d) A designated felon whose history indicates substance abuse problems shall not be
 348 considered for parole until such person has successfully completed the substance abuse
 349 counseling offered by the department.

350 (e) A designated felon who has committed an offense which has been identified to involve
 351 family violence as such term is defined in Code Section 19-13-1 shall not be released on
 352 parole until such person has successfully completed a family violence counseling program
 353 offered by the department.

354 49-4A-18.

355 (a) It shall be the duty of the panel administrator to obtain records and information as
 356 complete as may be practicable on every person who may become subject to any relief
 357 which may be within the power of a panel to grant. The information shall include:

358 (1) A complete statement of the designated felony act for which the person is committed,
 359 the circumstances of the act, and the nature of the person's commitment;

360 (2) The court from which the person was committed;

361 (3) The term of the commitment;

362 (4) The name of the presiding judge, the prosecuting officers, the investigating officers,
 363 and the attorney for the person convicted;

364 (5) A copy of presentence investigation and any previous court record;

365 (6) A copy of all probation reports which may have been made;

366 (7) Any social, physical, or mental examinations or juvenile court record of the person.

367 (8) A report by the superintendent of the institution in which the person has been
 368 committed upon the conduct of record of such person while in such commitment;

369 (9) Records substantiating the extent to which the person appears to have responded to
 370 the efforts made to improve his or her social attitude;

371 (10) The educational programs in which the person has participated and the level of
 372 education which the person has attained based on standardized reading tests; and

373 (11) The written, oral, audiotaped, or videotaped testimony of the victim, the victim's
 374 family, or a witness having personal knowledge of the victim's personal characteristics.

375 (b) The panel may also make such other investigation as it may deem necessary in order
 376 to be fully informed about the person being considered for parole. It shall be the duty of
 377 the court and of all probation officers and other appropriate officers to furnish to the panel,
 378 upon its request, such information as may be in their possession or under their control. The
 379 Department of Behavioral Health and Developmental Disabilities and all other state,
 380 county, and city agencies, all sheriffs and their deputies, and all peace officers shall
 381 cooperate with the panel and shall aid and assist it in the performance of its duties. The
 382 panel may make such rules as to the privacy or privilege of such information and as to its

383 use by persons other than the panel and its staff as may be deemed expedient in the
384 performance of its duties.

385 (c) Good conduct, achievement of a fifth-grade level or higher on standardized reading
386 tests, and efficient performance of duties by a designated felon shall be considered by the
387 panel in his or her favor and shall merit consideration of an application for parole. No
388 designated felon shall be placed on parole until and unless the panel finds that there is
389 reasonable probability that, if he or she is so released, he or she will live and conduct
390 himself or herself as a respectable and law-abiding person and that his or her release will
391 be compatible with his or her own welfare and the welfare of society.

392 (d) A grant of parole shall be rendered only by a written decision which shall be signed by
393 at least two panel members.

394 (e) Before releasing any person on parole, the panel may have the person appear before
395 it and may personally examine him or her. Thereafter, upon consideration, the panel shall
396 make its findings and determine whether or not such person shall be granted parole; and
397 the panel shall determine the terms and conditions thereof. Notice of the determination
398 shall be given to such person and to the official having him or her in custody.

399 (f) If a person is granted parole, the officials having the person in custody, upon
400 notification thereof, shall inform him or her of the terms and conditions thereof and shall,
401 in strict accordance therewith, release the person. The panel, upon placing a person on
402 parole, shall specify in writing the terms and conditions thereof. A certified copy of the
403 conditions shall be given to the parolee. Thereafter, a copy shall be sent to the clerk of the
404 court in which the person was adjudicated.

405 (g) Within 72 hours after the panel reaches a final decision to parole a designated felon,
406 the district attorney, the presiding judge, the sheriff of each county in which the designated
407 felon was adjudicated, the local law enforcement authorities of the county of the last
408 residence of the designated felon, and the victim shall be notified of the decision by the
409 chairperson of the panel. Such notice to the victim shall be given as provided in Code
410 Section 17-17-5. Failure of the prosecuting attorney to provide an address of the victim or
411 failure of the victim to inform the panel of a change of address shall not void a parole date
412 set by the panel.

413 (h)(1) Any person who is paroled shall be released on such terms and conditions as the
414 panel shall prescribe. The parolee shall remain in the legal custody of the department
415 until the expiration of the maximum term specified in his or her commitment or until such
416 commitment is shortened by a court of competent jurisdiction.

417 (2) The board shall adopt general rules concerning the terms and conditions of parole and
418 concerning what shall constitute a violation thereof and may make special rules to govern
419 particular cases. The rules, both general and special, may include, among other things,

420 a requirement that the parolee shall not leave this state or any definite area in this state
421 without the consent of the panel; that the parolee shall contribute to the support of his or
422 her dependents to the best of the parolee's ability; that the parolee shall make reparation
423 or restitution for his or her act; that the parolee shall perform community service; that the
424 parolee shall abandon evil associates and ways; and that the parolee shall carry out the
425 instructions of his or her parole supervisor and, in general, so comport himself or herself
426 as the parolee's supervisor shall determine. A violation of the terms of parole may render
427 the parolee liable to arrest and a return to a youth detention center to serve out the term
428 for which the parolee was adjudicated.

429 (3) The board may require the payment of a parole supervision fee in an amount to be
430 established by the board as a condition of parole. The monthly amount shall be set by
431 rule of the board and shall be uniform state wide. Such fees shall be collected by the
432 panel to be paid into the general fund of the state treasury

433 49-4A-19.

434 (a) If a parolee violates the terms of his or her parole, the parolee shall be subject to
435 rearrest or extradition for placement in the actual custody of the department.

436 (b) If any member of the panel shall have reasonable ground to believe that any parolee
437 has lapsed into criminal ways or has violated the terms and conditions of his or her parole
438 in a material respect, the panel member may issue a warrant for the arrest of the parolee.

439 (c) The warrant, if issued by a member or the panel, shall be returned before the panel and
440 shall command that the alleged violator of parole be brought before the panel for a final
441 hearing on revocation of parole within a reasonable time after the preliminary hearing
442 provided for in Code Section 49-4A-20.

443 (d) All officers authorized to serve criminal process, all peace officers of this state, and all
444 employees of the department whom the board specifically designates in writing shall be
445 authorized to execute the warrant.

446 (e) Any parole supervisor, when he or she has reasonable ground to believe that a parolee
447 has violated the terms or conditions of his parole in a material respect, shall notify the panel
448 or some member thereof; and proceedings shall thereupon be had as provided in this Code
449 section.

450 49-4A-20.

451 (a) Whenever a parolee is arrested on a warrant issued by a member of the panel for an
452 alleged violation of parole, an informal preliminary hearing in the nature of a court of
453 inquiry shall be held at or near the place of the alleged violation. However, a preliminary
454 hearing shall not be required if the parolee is not under arrest on a warrant issued by the

455 panel, has absconded from supervision, has signed a waiver of a preliminary hearing, has
456 admitted any alleged violation to any representative of the department in the presence of
457 a third party who is not a representative of the department, or has been adjudicated
458 delinquent or convicted of any crime in a federal court or in a court of this state or of
459 another state.

460 (b) The proceeding shall commence within a reasonable time after the arrest of the parolee.
461 Its purpose shall be to determine whether there is probable cause or reasonable grounds to
462 believe that the arrested parolee has committed acts which would constitute a violation of
463 his or her parole.

464 (c) The preliminary hearing shall be conducted by a hearing officer designated by the
465 department who shall be some officer who is not directly involved in the parolee's case. It
466 shall be the duty of the officer conducting the hearing to make a summary or digest, which
467 may be in the form of a tape recording, of what transpires at the hearing in terms of the
468 testimony and other evidence given in support of or against revocation. In addition, the
469 officer shall state the reasons for his or her decision that probable cause for revocation does
470 or does not exist and shall indicate the evidence relied upon.

471 (d) It shall be the responsibility of the officer selected to conduct the preliminary hearing
472 to provide the alleged violator with written notice of the time and place of the proceeding,
473 its purpose, and the violations which have been alleged. This notice shall allow a
474 reasonable time for the alleged violator to prepare his or her case.

475 (e) The officer selected to conduct the preliminary hearing shall have the power to issue
476 subpoenas to compel the attendance of witnesses resident within the county of the alleged
477 violation after notice of 24 hours. The subpoenas shall be issued without discrimination
478 between public and private parties. When a subpoena is disobeyed, any party may apply
479 to the superior court of the county in which the hearing provided for by this Code section
480 is held for an order requiring obedience. Failure to comply with the order shall be cause
481 for punishment as for contempt of court. The manner of service of subpoenas and costs of
482 securing the attendance of witnesses, including fees and mileage, shall be determined,
483 computed, and assessed in the same manner as is prescribed by law under Title 24.

484 (f) The officer selected to conduct the preliminary hearing shall also have power to issue
485 subpoenas for the production of documents or other written evidence at the hearing
486 provided for by this Code section; but upon written request made promptly and before the
487 hearing, the officer may quash or modify the subpoena if it is unreasonable or oppressive
488 or may condition denial of the request upon the advancement by the person in whose behalf
489 the subpoena is issued of the reasonable cost of producing the documents or other written
490 evidence. Enforcement of the subpoenas may be sought in the same manner as is provided
491 in subsection (e) of this Code section for subpoenas to compel the attendance of witnesses.

492 (g) At the hearing, the alleged violator may appear and speak in his or her own behalf, may
493 present witnesses to testify in his or her behalf, and may bring letters, documents, or any
494 other relevant information to the hearing officer. The alleged violator shall also have the
495 right to cross-examine those who have given adverse information at the preliminary
496 hearing relating to the alleged violation, provided that the hearing officer may refuse to
497 allow such questioning if he or she determines that the informant would be subjected to risk
498 of harm if his or her identity were disclosed.

499 (h) Should the hearing officer determine that probable cause for revocation exists, the
500 officer shall then determine whether the alleged violator should be incarcerated pending
501 his or her final revocation hearing or whether the alleged violator should be set free on his
502 or her personal recognizance pending the final hearing. If an alleged violator who is set
503 free on his or her personal recognizance subsequently fails to appear at his or her final
504 hearing, the panel may summarily revoke his or her parole.

505 (i) The decision of the hearing officer as to probable cause for revocation shall not be
506 binding on the panel but may be either ratified or overruled by majority vote of the panel.
507 In the event that the panel overrules a determination of the hearing officer that probable
508 cause did not exist, the panel shall then determine whether the alleged violator should be
509 incarcerated pending his or her final hearing or whether he or she should be set free on his
510 or her personal recognizance pending that hearing. If an alleged violator who is set free
511 on personal recognizance subsequently fails to appear at his or her final hearing, the panel
512 may summarily revoke his or her parole. Where a hearing officer has determined, after
513 finding probable cause, that the alleged violator should be set free on his or her personal
514 recognizance, the panel may overrule that decision and order the alleged violator to be
515 incarcerated pending his or her final hearing.

516 49-4A-21.

517 (a) A parolee who has allegedly violated the terms of his or her parole shall, except as
518 otherwise provided in this subsection, have a right to a final hearing before a panel, to be
519 held within a reasonable time after the occurrence of one of the events listed in this
520 subsection. No final hearing shall be required or permitted if the parolee has been
521 adjudicated delinquent or convicted of or entered any form of guilty plea or plea of nolo
522 contendere in any federal or state court of record to any crime committed by the parolee
523 during a term of parole, and, in such cases, the panel shall revoke the entire unexpired term
524 of parole. In no case shall a final hearing be required if the parolee has signed a waiver of
525 final hearing. The final hearing, if any, shall be held within a reasonable time:

526 (1) After an arrest warrant has been issued by a member of the panel and probable cause
527 for revocation has been found by the preliminary hearing officer:

- 528 (2) After a majority of the panel overrules a determination by the preliminary hearing
529 officer that probable cause does not exist;
- 530 (3) After the panel or two of its members are informed of an alleged violation and decide
531 to consider the matter of revocation without issuing a warrant for the alleged violator's
532 arrest; or
- 533 (4) After a determination has been made that no preliminary hearing is required under
534 subsection (a) of Code Section 49-4A-20.
- 535 (b) The purpose of the hearing shall be to determine whether the alleged violator has in
536 fact committed any acts which would constitute a violation of the terms and conditions of
537 his or her parole and whether those acts are of such a nature as to warrant revocation of
538 parole.
- 539 (c) When a parolee has been adjudicated delinquent or convicted of any crime or has
540 entered a plea of guilty or nolo contendere thereto in a court of record, his or her parole
541 may be revoked without a hearing before the panel. Moreover, whenever it shall appear
542 to the panel that a parolee either has absconded or has been adjudicated delinquent or
543 convicted of another crime in a federal court or in a court of record of another state, the
544 panel may issue an order of temporary revocation of parole, together with its warrant for
545 such violator, which shall suspend the running of the parolee's time from the date of the
546 temporary revocation of parole to the date of the determination by the panel as to whether
547 the temporary revocation shall be made permanent. If the panel determines that there has
548 been no violation of the conditions of the parole, then the parolee shall be reinstated upon
549 his or her original parole without any loss of time and the order of temporary revocation
550 of parole and the warrant shall be withdrawn.
- 551 (d) In all cases in which there is a hearing before the panel, the alleged violator shall be
552 given written notice of the time and place of the hearing and of the claimed violations of
553 parole. The notice shall be served by delivering it to the alleged violator in person, by
554 delivering it to a person 18 years or older at his or her last known place of residence, or by
555 depositing it in the mail properly addressed to his or her last known place of residence. In
556 addition, this notice shall advise him or her of the following rights:
- 557 (1) His or her right to disclosure of evidence introduced against him or her; provided,
558 however, this right shall not be construed to require the panel to disclose to an alleged
559 violator confidential information contained in its files which has no direct bearing on the
560 matter of parole revocation;
- 561 (2) His or her opportunity to be heard in person and to present witnesses and
562 documentary evidence;

563 (3) His or her right to confront and cross-examine adverse witnesses, unless a majority
564 of the panel determines that disclosure of a particular informant's identity would cause
565 that informant or a member of his or her family to suffer a risk of harm; and

566 (4) His or her right to subpoena witnesses and documents through the panel as provided
567 in subsections (e) and (f) of this Code section.

568 (e) The panel shall have the power to issue subpoenas to compel the attendance of
569 witnesses at the hearing provided for by this Code section. The subpoenas shall be issued
570 without discrimination between public and private parties. When a subpoena is disobeyed,
571 any party may apply to the superior court of the county in which the hearing provided for
572 by this Code section is held for an order requiring obedience. Failure to comply with the
573 order shall be cause for punishment as for contempt of court. The manner of service of
574 subpoenas and costs of securing the attendance of witnesses, including fees and mileage,
575 shall be determined, computed, and assessed in the same manner as prescribed by law
576 under Title 24.

577 (f) The panel shall have the power to issue subpoenas for the production of documents or
578 other written evidence at the hearing provided for by this Code section, but upon written
579 request made promptly and before the hearing the panel may quash or modify the subpoena
580 if it is unreasonable or oppressive or may condition denial of the request upon the
581 advancement by the person in whose behalf the subpoena is issued of the reasonable cost
582 of producing the documents or other written evidence. Enforcement of such subpoenas
583 may be sought in the same manner as is provided in subsection (e) of this Code section for
584 subpoenas to compel attendance of witnesses.

585 (g) Within a reasonable time after the hearing provided for by this Code section, the panel
586 shall enter an order (1) rescinding parole and returning the parolee to serve the remainder
587 of the commitment imposed upon him or her, with benefit of computing the time so served
588 on parole as a part of his or her sentence; or (2) reinstating the parole or shall enter such
589 other order as it may deem proper. The panel shall issue a written statement which shall
590 indicate its reasons for revoking or not reinstating parole or for taking such other action as
591 it deems appropriate and shall also indicate the evidence relied upon in determining the
592 facts which form the basis for these reasons. The parolee who is the subject of the panel's
593 decision shall be furnished with a copy of this written statement.

594 49-4A-22.

595 No person who has been placed on parole shall be discharged therefrom by the panel prior
596 to the expiration of the term for which he or she was sentenced or until he or she shall have
597 been released by a court of competent jurisdiction as provided in this Code section or as
598 otherwise provided by law. The panel may relieve a person on parole from making further

599 reports and may permit the person to leave the state or county if satisfied that this is for the
 600 parolee's best interest and for the best interest of society.

601 49-4A-23.

602 (a) The panel shall preserve on file all documents on which it has acted in the granting of
 603 parole.

604 (b) All information, both oral and written, received by members of a panel in the
 605 performance of their duties under this chapter and all records, papers, and documents
 606 coming into their possession by reason of the performance of their duties under this chapter
 607 shall be classified as confidential state secrets until declassified by a resolution of the panel
 608 passed at a duly constituted session of the panel; provided, however, that the panel shall
 609 be authorized to disclose to an alleged violator of parole the evidence introduced against
 610 him or her at a final hearing on the matter of revocation of parole.

611 (c) No person shall divulge or cause to be divulged in any manner any confidential state
 612 secret. Any person violating this Code section or any person who causes or procures a
 613 violation of this Code section or conspires to violate this Code section shall be guilty of a
 614 misdemeanor.

615 (d) All hearings required to be held by this chapter shall be public, and the transcript
 616 thereof shall be exempt from subsection (b) of this Code section. All records and
 617 documents which were public records at the time they were received by the panel are
 618 exempt from subsection (b) of this Code section. All information, reports, and documents
 619 required by law to be made available to the General Assembly, the Governor, or the state
 620 auditor are exempt from subsection (b) of this Code section.

621 49-4A-24.

622 The Governor shall have no authority or power whatever over the granting of paroles.

623 49-4A-25.

624 On or before January 1 of each year, the department shall make a print or electronic
 625 publication of the panel's activities, copies of which shall be made available to the
 626 Governor, each body of the General Assembly, and to such other officers and persons as
 627 the commissioner may deem advisable."

628 **SECTION 10.**

629 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
 630 proceedings, is amended by revising subsection (b) of Code Section 15-11-40, relating to
 631 modification or vacation of orders, as follows:

632 "(b) Except an order of dismissal, an An order of the court may also be changed, modified,
 633 or vacated on the ground that changed circumstances so require in the best interest of the
 634 child, ~~except an order committing a delinquent child to the Department of Juvenile Justice,~~
 635 ~~after the child has been transferred to the physical custody of the Department of Juvenile~~
 636 ~~Justice, or an order of dismissal.~~ An order granting probation to a child found to be
 637 delinquent or unruly may be revoked on the ground that the conditions of probation have
 638 not been observed."

639 **SECTION 11.**

640 Said chapter is further amended by revising subsections (e) through (h) of Code Section
 641 15-11-63, relating to designated felony acts, as follows:

642 "(e) When the order is for restrictive custody in the case of a child found to have
 643 committed a designated felony act:

644 (1) The order shall provide that:

645 (A) The child shall be placed in the custody of the Department of Juvenile Justice for
 646 an initial period of five years, subject to parole;

647 (B) The child shall initially be confined in a youth development center for a period set
 648 by the order, ~~to be not less than 12 nor more than 60 months~~; provided, however, that
 649 time spent in secure detention prior to placement in a youth development center shall
 650 be counted toward the period set by the order; ~~and provided, further, that where the~~
 651 ~~order of the court is made in compliance with subsection (f) of this Code section, the~~
 652 ~~child shall initially be confined in a youth development center for 18 months~~;

653 (C) After the period set under subparagraph (B) of this paragraph, the child shall be
 654 placed under intensive supervision for a period of 12 months; and

655 (D) The child may not be released from a youth development center or transferred to
 656 a nonsecure facility during the period provided in subparagraph (B) of this paragraph
 657 nor may the child be released from intensive supervision during the period provided in
 658 subparagraph (C) of this paragraph, unless by court order. No home visits shall be
 659 permitted during the first six-month period of confinement in a youth development
 660 center unless authorized by the court except for emergency visits for medical treatment
 661 or severe illness or death in the family. All home visits must be carefully arranged and
 662 monitored while a child is confined in a youth development center, whether such
 663 confinement is pursuant to a court order or otherwise;

664 (2) During the placement or any extension thereof:

665 (A) After the expiration of the period provided in subparagraph (C) of paragraph (1)
 666 of this subsection, the child shall not be released from intensive supervision without the

667 written approval of the commissioner of juvenile justice or such commissioner's
668 designated deputy;

669 (B) While in a youth development center, the child may be permitted to participate in
670 all youth development center services and programs and shall be eligible to receive
671 special medical and treatment services, regardless of the time of confinement in the
672 youth development center. After the first six months of confinement in a youth
673 development center, a child may be eligible to participate in youth development center
674 sponsored programs including community work programs and sheltered workshops
675 under the general supervision of a youth development center staff outside of the youth
676 development center; and, in cooperation and coordination with the Department of
677 Human Services, the child may be allowed to participate in state sponsored programs
678 for evaluation and services under the Division of Rehabilitation Services of the
679 Department of Labor and the Department of Behavioral Health and Developmental
680 Disabilities; and

681 ~~(C) The child shall not be discharged from the custody of the Department of Juvenile~~
682 ~~Justice unless a motion therefor is granted by the court, which motion shall not be made~~
683 ~~prior to the expiration of one year of custody; and~~

684 ~~(D)~~ Unless otherwise specified in the order, the Department of Juvenile Justice shall
685 report in writing to the court not less than once every six months during the placement
686 on the status, adjustment, and progress of the child; and

687 (3) Upon the expiration of the initial period of placement in a youth development center,
688 or any extension thereof, the placement may be extended on motion by the Department
689 of Juvenile Justice, after a dispositional hearing, for an additional period of 12 months,
690 provided that no initial placement or extension of custody under this Code section may
691 continue beyond the individual's twenty-first birthday.

692 ~~(f) When the order is for restrictive custody in the case of a child found to have committed~~
693 ~~any designated felony act and such child has been found by a court to have committed a~~
694 ~~designated felony act on a prior occasion, regardless of the age of the child at the time of~~
695 ~~commission of such prior act, the order of the court shall be made pursuant to subparagraph~~
696 ~~(e)(1)(B) of this Code section.~~

697 ~~(g)(f)~~ The Department of Juvenile Justice shall retain the power to continue the
698 confinement of the child in a youth development center or other program beyond the
699 periods specified by the court within the term of the order.

700 ~~(h)(g)~~ Any court making a finding or adjudication that a child has committed a designated
701 felony act shall identify the school last attended by such child and the school which such
702 child intends to attend and shall transmit a copy of such adjudication or finding to the
703 principals of the school which the child last attended and the school which the child intends

704 to attend within 15 days of the adjudication or finding. Such information shall be subject
705 to notification, distribution, and requirements as provided in Code Section 20-2-671."

706 **SECTION 12.**

707 Said chapter is further amended by adding a new Code section to read as follows:

708 "15-11-63.1.

709 (a) A child adjudicated to have committed a designated felony act shall not be discharged
710 from the custody of the Department of Juvenile Justice or released from secure detention
711 prior to the period of time provided in the court's order unless parole is granted by a
712 juvenile parole panel. Notwithstanding the powers granted to a court under Code Section
713 15-11-40, the child or the Department of Juvenile Justice may petition a juvenile parole
714 panel for the child's release on parole; provided, however, that such request shall not be
715 made prior to the expiration of one year of custody and, except as the Department of
716 Juvenile Justice in its discretion may allow, shall not be filed more than once every 12
717 months after any such request has been denied.

718 (b) All requests for parole filed under this Code section shall be accompanied by a written
719 recommendation for discharge or modification from the child's Department of Juvenile
720 Justice counselor or placement supervisor and filed with the Department of Juvenile
721 Justice. At least ten days prior to the date of the parole hearing, the moving party shall
722 serve a copy of the request for parole, by first-class mail, upon the prosecuting attorney for
723 the court that committed the child to the department, the victim of the designated felony
724 act, if any, at the victim's last known address, the child's attorney, if any, the child's parents
725 or guardian, and the law enforcement agency that investigated the designated felony act.

726 (c) A panel hearing a request for parole filed under this Code section shall determine the
727 disposition of the child based upon a preponderance of the evidence. In determining
728 whether parole should be granted or denied, the panel shall be required to find that the child
729 has been rehabilitated and shall consider and make specific findings of fact as to each of
730 the following factors:

731 (1) The needs and best interests of the child;

732 (2) The record and background of the child, including the disciplinary history of the child
733 during the period of restrictive custody and subsequent offense history;

734 (3) The academic progress of the child during the period of restrictive custody;

735 (4) The victim's impact statement submitted for purposes of a hearing conducted
736 pursuant to this Code section; and

737 (5) The safety risk to the community if the child is released."

738 **SECTION 12.**

739 This Act shall become effective on January 1, 2012.

740 **SECTION 13.**

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