

The Senate State Institutions and Property Committee offered the following substitute to SB 214:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated,
2 relating to the state-wide probation system, so as to provide for the transfer of certain
3 confidential probation records to the parole board; to amend Article 2 of Chapter 9 of Title
4 42 of the Official Code of Georgia Annotated, relating to grants of pardons, paroles, and
5 other relief, so as to provide for the transfer of certain confidential parole records to
6 probation officials employed with the Department of Corrections; to provide for related
7 matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Article 2 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to the
11 state-wide probation system, is amended by revising Code Section 42-8-40, relating to the
12 confidentiality of papers, exemption from subpoena, and declassification, as follows:

13 "42-8-40.

14 (a) All Except as provided in subsection (b) of this Code section, all reports, files, records,
15 and papers of whatever kind relative to the state-wide probation system are declared to be
16 confidential and shall be available only to the probation system officials and to the judge
17 handling a particular case. They shall not be subject to process of subpoena. However, the
18 commissioner may by written order declassify any such records.

19 (b) Supervision records of the state-wide probation system may be made available to
20 officials employed with the State Board of Pardons and Paroles, provided that the same
21 shall remain confidential and not available to any other person or subject to subpoena
22 unless declassified by the State Board of Pardons and Paroles."

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SECTION 2.

Article 2 of Chapter 9 of Title 42 of the Official Code of Georgia Annotated, relating to grants of pardons, paroles, and other relief, is amended by revising Code Section 42-9-53, relating to the preservation of documents, classification of information and documents, divulgence of confidential state secrets, and conduct of hearings, as follows:

"42-9-53.

(a) Subject to other laws, the board shall preserve on file all documents on which it has acted in the granting of pardons, paroles, and other relief.

(b) All information, both oral and written, received by the members of the board in the performance of their duties under this chapter and all records, papers, and documents coming into their possession by reason of the performance of their duties under this chapter shall be classified as confidential state secrets until declassified by ~~a resolution of the board passed at a duly constituted session of the board~~; provided, however, that the board shall be authorized to disclose to an alleged violator of parole or conditional release the evidence introduced against him or her at a final hearing on the matter of revocation of parole or conditional release; provided, further, that the board may make supervision records of the board available to probation officials employed with the Department of Corrections, provided that the same shall remain confidential and not available to any other person or subject to subpoena unless declassified by the board.

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

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

SECTION 3.

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