

The House Committee on Judiciary offers the following substitute to SB 39:

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 definitions; to provide for assignment of cases; to provide for planning groups and work  
4 plans; to provide for standards; to provide for staffing and expenses; to provide for  
5 completion of mental health court division programs; to provide for records, fees, grants, and  
6 donations; to provide for related 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) As used in this Code section, the term:

13 (1) 'Developmental disability' shall have the same meaning as set forth in Code Section  
14 37-1-1.

15 (2) 'Mental illness' shall have the same meaning as set forth in Code Section 37-1-1.

16 (b)(1) To achieve a reduction in recidivism and symptoms of mental illness among  
17 mentally ill offenders in criminal cases and to increase their likelihood of successful  
18 rehabilitation through early, continuous, and intense judicially supervised treatment, any  
19 court that has jurisdiction over a criminal case in which a defendant has a mental illness  
20 or developmental disability, or a co-occurring mental illness and substance abuse  
21 disorder, may establish a mental health court division to provide an alternative to the  
22 traditional judicial system for disposition of such cases. A mental health court division  
23 will bring together mental health professionals, local social programs, and intensive  
24 judicial monitoring.

25 (2) In any criminal case in which a defendant suffers from a mental illness or  
26 developmental disability, or a co-occurring mental illness and substance abuse disorder,

27 and the defendant meets the eligibility criteria for the mental health court division, the  
28 court may refer the case to the mental health court division:

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

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

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

32 (3) Each mental health court division shall establish a planning group to develop a  
33 written work plan. The planning group shall include judges, prosecuting attorneys,  
34 sheriffs or their designees, public defenders, probation officers, and persons having  
35 expertise in the field of mental health. The work plan shall address the operational,  
36 coordination, resource, information management, and evaluation needs of the mental  
37 health court division. The work plan shall include written eligibility criteria for the  
38 mental health court division. The mental health court division shall combine judicial  
39 supervision, treatment of mental health court division participants, and drug and mental  
40 health testing. Defendants charged with murder, armed robbery, rape, aggravated  
41 sodomy, aggravated sexual battery, aggravated child molestation, or child molestation  
42 shall not be eligible for entry into the mental health court division, except in the case of  
43 a separate court supervised reentry program designed to more closely monitor mentally  
44 ill offenders returning to the community after having served a term of incarceration. Any  
45 such court supervised community reentry program for mentally ill offenders shall be  
46 subject to the work plan as provided for in this paragraph.

47 (4) The Judicial Council of Georgia shall adopt standards for the mental health court  
48 divisions. Each mental health court division shall adopt standards that are consistent with  
49 the standards of the Judicial Council of Georgia. The standards shall serve as a flexible  
50 framework for developing effective mental health court divisions and provide a structure  
51 for conducting research and evaluation for division accountability. The standards are not  
52 intended to be a certification or regulatory checklist.

53 (5) The court instituting the mental health court division may request the district attorney  
54 for the judicial circuit or solicitor-general for the state court for the jurisdiction to  
55 designate one or more prosecuting attorneys to serve in the mental health court division  
56 and may request the circuit public defender, if any, to designate one or more assistant  
57 public defenders to serve in the mental health court division.

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

60 (7) The court instituting the mental health court division may request other employees  
61 of the court to perform duties for the mental health court division. Such employees shall  
62 perform duties as directed by the judges of the mental health court division.

63 (8) The court instituting the mental health court division may enter into agreements with  
64 other courts and agencies for the assignment of personnel from other courts and agencies  
65 to the mental health court division, including probation supervision.

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

70 (c)(1) Each mental health court division shall establish written criteria that define the  
71 successful completion of the mental health court division program.

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

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

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

80 (d) Any statement made by a mental health court division participant as part of  
81 participation in such court, or any report made by the staff of the court or program  
82 connected to the court, regarding a participant's mental health shall not be admissible as  
83 evidence against the participant in any legal proceeding or prosecution; provided, however,  
84 that if the participant violates the conditions of his or her participation in the division or is  
85 terminated from the mental health court division, the reasons for the violation or  
86 termination may be considered in sanctioning, sentencing, or otherwise disposing of the  
87 participant's case.

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

90 (f) Notwithstanding any provision of law to the contrary, mental health court division staff  
91 shall be provided, upon request, with access to all records relevant to the treatment of the  
92 mental health court division participant from any state or local government agency, except  
93 records declared confidential by Code Section 49-5-40 to which access may be obtained  
94 pursuant to Code Section 49-5-41. All records and the contents thereof shall be treated as  
95 confidential, shall not be disclosed to any person outside of the mental health court  
96 division, and shall not be subject to Article 4 of Chapter 18 of Title 50 or subject to  
97 subpoena, discovery, or introduction into evidence in any civil or criminal proceeding.  
98 Such records and the contents thereof shall be maintained by the mental health court  
99 division and originating court in a confidential file not available to the public.

100 (g) Any fees received by a mental health court division from a mental health court division  
101 participant as payment for mental health treatment and services shall not be considered as  
102 court costs or a fine.

103 (h) The court shall have the authority to accept grants and donations and other proceeds  
104 from outside sources for the purpose of supporting the mental health court division. Any  
105 such grants, donations, or proceeds shall be retained by the mental health court division for  
106 expenses."

107 **SECTION 2.**

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