

Senate Bill 39

By: Senators Grant of the 25th, Crosby of the 13th, Cowser of the 46th, Carter of the 42nd, Unterman of the 45th and others

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"15-1-16.

(a) As used in this Code section, the term:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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