House Bill 344 (AS PASSED HOUSE AND SENATE)
By: Representatives Davis of the 109th, Barnard of the 166th, Jerguson of the 22nd, and Horne of the 71st

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 42-8-34 of the Official Code of Georgia Annotated, relating to probation hearings and determinations, referral of cases to probation supervisors, probation or suspension of a sentence, payment of a fine or costs, disposition of a defendant prior to a hearing, continuing jurisdiction, transferal of probation supervision, and probation fees, so as to authorize a sentencing court to impose an additional charge on a felony defendant sentenced to a day reporting center; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 42-8-34 of the Official Code of Georgia Annotated, relating to probation hearings and determinations, referral of cases to probation supervisors, probation or suspension of a sentence, payment of a fine or costs, disposition of a defendant prior to a hearing, continuing jurisdiction, transferal of probation supervision, and probation fees, is amended by revising subsection (d) to read as follows:

"(d)(1) In every case that a court of this state or any other state sentences a defendant to probation or any pretrial release or diversion program under the supervision of the department, in addition to any fine or order of restitution imposed by the court, there shall be imposed a probation fee as a condition of probation, release, or diversion in the amount equivalent to $23.00 per each month under supervision, and in addition, a one-time fee of $50.00 where such defendant was convicted of any felony. The probation fee may be waived or amended after administrative process by the department and approval of the court, or upon determination by the court, as to the undue hardship, inability to pay, or any other extenuating factors which prohibit collection of the fee; provided, however, that the imposition of sanctions for failure to pay fees shall be within the discretion of the court through judicial process or hearings. Probation fees shall be

waived on probationers incarcerated or detained in a departmental or other confinement facility which prohibits employment for wages. All probation fees collected by the department shall be paid into the general fund of the state treasury, except as provided in subsection (f) of Code Section 17-15-13, relating to sums to be paid into the Georgia Crime Victims Emergency Fund. Any fees collected by the court under this paragraph shall be remitted not later than the last day of the month after such fee is collected to the Georgia Superior Court Clerks' Cooperative Authority for deposit into the general fund of the state treasury.

(2) In addition to any other provision of law, any person convicted of a violation of Code Section 40-6-391 or subsection (b) of Code Section 16-13-2 who is sentenced to probation or a suspended sentence by a municipal, magistrate, probate, recorder's, mayor's, state, or superior court shall also be required by the court to pay a one-time fee of $25.00. The clerk of court, or if there is no clerk the person designated to collect fines, fees, and forfeitures for such court, shall collect such fee and remit the same not later than the last day of the month after such fee is collected to the Georgia Superior Court Clerks' Cooperative Authority for deposit into the general fund of the state treasury.

(3) In addition to any fine, fee, restitution, or other amount ordered, the sentencing court may also impose as a condition of probation for felony criminal defendants sentenced to a day reporting center an additional charge, not to exceed $10.00 per day for each day such defendant is required to report to a day reporting center; provided, however, that no fee shall be imposed or collected if the defendant is unemployed or has been found indigent by the sentencing court. The charges required by this paragraph shall be paid by the probationer directly to the department. Funds collected by the department pursuant to this subsection shall only be used by the department in the maintenance and operation of the day reporting center program.″

SECTION 2.

This Act shall become effective on July 1, 2009, and shall apply to persons convicted on or after such date.

SECTION 3.

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