

The House Committee on Judiciary Non-Civil offers the following substitute to SB 367:

A BILL TO BE ENTITLED

AN ACT

1 To provide for comprehensive reform for offenders entering, proceeding through, and
2 leaving the criminal justice system so as to promote an offender's successful reentry into
3 society, benefit the public, and enact reforms recommended by the Georgia Council on
4 Criminal Justice Reform; to amend Title 15 of the Official Code of Georgia Annotated,
5 relating to courts, so as to create operating under the influence court divisions and family
6 treatment court divisions; to provide for assignment of cases, planning groups, work plans,
7 standards and practices, staffing and expenses, records, fees, grants, and donations; to
8 provide for oversight by the Council of Accountability Court Judges of Georgia; to change
9 the composition of the Council of Accountability Court Judges of Georgia; to provide for
10 record restriction in accountability courts under certain circumstances; to provide for
11 considerations relative to the detention of children under the age of 14; to authorize a state
12 or local governing authority to contract for services for Pretrial Intervention and Diversion
13 Programs; to provide for the collection of fees for and expenditures of funds from the County
14 Drug Abuse Treatment Education Fund relative to operating under the influence and family
15 treatment court divisions; to amend Titles 20, 42, and 49 of the Official Code of Georgia
16 Annotated, relating to education, penal institutions, and social services, respectively, so as
17 to provide for students incarcerated in Department of Corrections facilities or incarcerated
18 or committed to Department of Juvenile Justice facilities to receive educational services
19 through a state charter school; to provide for state funding for the education of such students
20 in the same manner as for other students enrolled in the state charter school; to amend Title
21 20 of the Official Code of Georgia Annotated, relating to education, so to provide for matters
22 relating to school discipline and disrupting the operation of public schools; to amend Chapter
23 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, so as
24 to create better opportunities for defendants to regain driving privileges; to provide for a
25 pauper's affidavit for a partial waiver of driver's license reinstatement and restoration fees;
26 to provide for concurrent driver's license suspensions and revocations under certain
27 circumstances; to change provisions relating to determining the length of certain driver's
28 license revocations; to limit eligibility for indefinitely renewable limited driving permits; to

29 provide for certain drivers' licenses to be automatically reinstated; to provide for procedure;
30 to allow operating under the influence court divisions to restore or suspend an operating
31 under the influence court division participant's driver's license or issue a participant a limited
32 driving permit or ignition interlock device limited driving permit under certain
33 circumstances; to amend Title 42 of the Official Code of Georgia Annotated, relating to
34 penal institutions, so as to clarify responsibilities of the Board of Community Supervision
35 and the Department of Community Supervision; to provide for an offender transition and
36 reentry unit and misdemeanor probation unit within the Department of Community
37 Supervision; to amend Chapter 8 of Title 42, Article 2 of Chapter 7 of Title 17, and Article
38 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to probation,
39 commitment hearings, and the Georgia Crime Information Center, respectively, so as to
40 clarify first offender status and provide duties, obligations, and responsibilities for the clerk
41 of court, the Department of Community Supervision, probation officers serving pursuant to
42 Article 6 of Chapter 8 of Title 42, and the Department of Corrections; to specify entities to
43 whom first offender information shall be provided; to change provisions relating to first
44 offender dispositions and the release of records thereof; to provide for the reporting of cases
45 dismissed prior to filing an accusation or indictment; to provide for procedure; to enact
46 reforms relating to criminal record keeping and dissemination; to clarify duties and
47 responsibilities for criminal record keeping and dissemination; to clarify provisions relating
48 to record restriction; to allow record restriction for certain first offenders who were under 21
49 years of age and accused of certain alcohol related violations; to amend Title 42 of the
50 Official Code of Georgia Annotated, relating to penal institutions, so as to change provisions
51 relating to agreements for probation services; to provide for preliminary requirements for
52 revocations based solely on failure to pay fines, statutory surcharges, or probation
53 supervision fees or solely on failure to report; to provide for procedure; to provide for early
54 termination of probation and review of certain misdemeanor probation cases under certain
55 circumstances; to change provisions relating to parole eligibility for certain offenders; to
56 repeal obsolete references to pretrial diversion programs that are no longer operated by the
57 Department of Corrections or the Department of Community Supervision; to amend Chapter
58 1 of Title 43 of the Official Code of Georgia Annotated, relating to general provisions
59 applicable to professions and businesses, so as to require professional licensing boards to
60 consider certain factors relating to felonies before denying a license to an applicant or
61 revoking a license and to provide for probationary licenses for participants in accountability
62 courts; to amend Article 1 of Chapter 4 of Title 49 of the Official Code of Georgia
63 Annotated, relating to general provisions for public assistance, so as to provide for eligibility
64 for food stamps under certain circumstances; to amend Code Section 49-4A-2 of the Official
65 Code of Georgia Annotated, relating to the creation of the Board of Juvenile Justice, so as

to provide for rules and regulations governing the transfer of probation supervision of certain juvenile offenders; to amend the Official Code of Georgia Annotated so as to conform provisions and correct cross-references; 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:

PART I

EXPANDING ACCOUNTABILITY COURTS AND
PRETRIAL INTERVENTION AND DIVERSION PROGRAMS;
DETENTION OF YOUTH

SECTION 1-1.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising paragraph (1) of subsection (a) of Code Section 15-1-18, relating to the Council of Accountability Court Judges of Georgia, as follows:

"(1) 'Accountability court' means a superior, state, or juvenile court that has a drug court division, mental health court division, or veterans court division, or operating under the influence court division or a juvenile court that has a family treatment court division."

SECTION 1-2.

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

"15-1-19.

(a)(1) As used in this subsection, the term 'risk and needs assessment' means an actuarial tool, approved by the Council of Accountability Court Judges of Georgia and validated on a targeted population, scientifically proven to determine an individual's risk to recidivate and to identify criminal risk factors that, when properly addressed, can reduce such individual's likelihood of committing future criminal behavior.

(2) Any superior, state, or juvenile court that has jurisdiction over a violation of Code Section 40-6-391 or 52-7-12 may establish an operating under the influence court division to provide an alternative to the traditional judicial system for disposition of such cases.

(3) In any case which arises from a violation of Code Section 40-6-391 or 52-7-12 or is ancillary to such conduct and the defendant meets the eligibility criteria for the operating under the influence court division, the court may assign the case to the operating under the influence court division:

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

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

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

101 (4) Each operating under the influence court division shall establish a planning group to
102 develop a work plan. The planning group shall include the judges, prosecuting attorneys,
103 public defenders, community supervision officers, probation officers serving pursuant to
104 Article 6 of Chapter 8 of Title 42, and persons having expertise in the field of substance
105 abuse. The work plan shall address the operational, coordination, resource, information
106 management, and evaluation needs of the operating under the influence court division.
107 The work plan shall include operating under the influence court division policies and
108 practices related to implementing the standards and practices developed pursuant to
109 paragraph (5) of this subsection. The work plan shall ensure a risk and needs assessment
110 is used to identify the likelihood of recidivating and identify the needs that, when met,
111 reduce recidivism. The work plan also shall ensure that operating under the influence
112 court division eligibility shall be focused on moderate-risk and high-risk offenders as
113 determined by a risk and needs assessment. The operating under the influence court
114 division shall combine judicial supervision, treatment of operating under the influence
115 court division participants, and drug testing.

116 (5)(A) The Council of Accountability Court Judges of Georgia shall establish standards
117 and practices for operating under the influence court divisions, taking into consideration
118 guidelines and principles based on current research and findings that are published by
119 the National Drug Court Institute, the National Center for DWI Courts, and the
120 Substance Abuse and Mental Health Services Administration and related to practices
121 shown to reduce recidivism of offenders with alcohol or drug abuse problems.
122 Standards and practices shall include, but shall not be limited to, the use of a risk and
123 needs assessment to identify the likelihood of recidivating and identify the needs that,
124 when met, reduce recidivism. The Council of Accountability Court Judges of Georgia
125 shall update its standards and practices to incorporate research, findings, and
126 developments in the operating under the influence court field. Each operating under the
127 influence court division shall adopt policies and practices that are consistent with the
128 standards and practices published by the Council of Accountability Court Judges of
129 Georgia.

130 (B) The Council of Accountability Court Judges of Georgia shall provide technical
131 assistance to operating under the influence court divisions to assist them with the
132 implementation of policies and practices, including, but not limited to, guidance on the
133 implementation of risk and needs assessments in operating under the influence court
134 divisions.

(C) The Council of Accountability Court Judges of Georgia shall create and manage a certification and peer review process to ensure operating under the influence court divisions are adhering to the Council of Accountability Court Judges of Georgia's standards and practices and shall create a waiver process for operating under the influence court divisions to seek an exception to the Council of Accountability Court Judges of Georgia's standards and practices. In order to receive state appropriated funds, any operating under the influence court division established on and after July 1, 2017, shall be certified pursuant to this subparagraph or, for good cause shown to the Council of Accountability Court Judges of Georgia, shall receive a waiver from the Council of Accountability Court Judges of Georgia.

(D) On and after July 1, 2017, the award of any state funds for an operating under the influence court division shall be conditioned upon an operating under the influence court division attaining certification or a waiver by the Council of Accountability Court Judges of Georgia. On or before September 1, the Council of Accountability Court Judges of Georgia shall publish an annual report listing certified operating under the influence court divisions.

(E) The Council of Accountability Court Judges of Georgia shall develop and manage an electronic information system for performance measurement and accept submission of performance data in a consistent format from all operating under the influence court divisions. The Council of Accountability Court Judges of Georgia shall identify elements necessary for performance measurement, including, but not limited to, recidivism, the number of moderate-risk and high-risk participants in an operating under the influence court division, drug testing results, drug testing failures, participant employment, the number of participants who successfully complete the program, and the number of participants who fail to complete the program.

(F) On or before July 1, 2017, and every three years thereafter, the Council of Accountability Court Judges of Georgia shall conduct a performance peer review of the operating under the influence court divisions for the purpose of improving operating under the influence court division policies and practices and the certification and recertification process.

(6) A court instituting the operating under the influence court division may request the prosecuting attorney for the jurisdiction to designate one or more prosecuting attorneys to serve in the operating under the influence court division and may request the public defender, if any, to designate one or more assistant public defenders to serve in the operating under the influence court division.

(7) The clerk of court for the court that is instituting the operating under the influence court division or such clerk's designee shall serve as the clerk of the operating under the influence court division.

(8) The court instituting the operating under the influence court division may request community supervision officers, probation officers serving pursuant to Article 6 of Chapter 8 of Title 42, and other employees of the court to perform duties for the operating under the influence court division. Such individuals shall perform duties as directed by the judges of the operating under the influence court division.

(9) The court instituting the operating under the influence court division may enter into agreements with other courts, agencies, and private corporations, private enterprises, private agencies, or private entities providing services pursuant to Article 6 of Chapter 8 of Title 42 for the assignment of personnel from such other entities to the operating under the influence court division.

(10) 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 operating under the influence court division, federal grant funds, and funds from private donations.

(b)(1) Each operating under the influence court division shall establish criteria which define the successful completion of the operating under the influence court division program.

(2) If the operating under the influence court division participant successfully completes the operating under the influence court division program as part of a sentence imposed by the court:

(A) A judge presiding in such court division shall not order the dismissal of any offense involving or arising from a violation of Code Section 40-6-391 or 52-7-12; and

(B) A judge presiding in such court division shall not order the restriction or vacation of a conviction of any offense involving or arising from a violation of Code Section 40-6-391 or 52-7-12.

(3) If the operating under the influence court division participant successfully completes the operating under the influence court division program as part of a sentence imposed by the court, the sentence of the operating under the influence 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.

(c) Any statement made by an operating under the influence court division participant as part of participation in such court division, or any report made by the staff of such court division or program connected to such court division, regarding a participant's substance

usage 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 program or is terminated from the operating under the influence court division, the reasons for the violation or termination may be considered in sanctioning, sentencing, or otherwise disposing of the participant's case.

(d) Notwithstanding any provision of law to the contrary, operating under the influence court division staff shall be provided, upon request, with access to all records relevant to the treatment of the operating under the influence court division participant from any state or local government agency. All such records and the contents thereof shall be treated as confidential, shall not be disclosed to any person outside of the operating under the influence court division, and shall not be subject to Article 4 of Chapter 18 of Title 50, relating to open records, 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 operating under the influence court division and originating court in a confidential file not available to the public.

(e) Any fees received by an operating under the influence court division from an operating under the influence court division participant as payment for substance abuse treatment and services shall not be considered as court costs or a fine.

(f) The court may have the authority to accept grants, donations, and other proceeds from outside sources for the purpose of supporting the operating under the influence court division. Any such grants, donations, or proceeds shall be retained by the operating under the influence court division for expenses."

SECTION 1-3.

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

"15-1-20.

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

(1) 'Accountability court' means a superior or state court that has a drug court division, mental health court division, or veterans court division or a juvenile court that has a family treatment court division.

(2) 'Criminal history record information' shall have the same meaning as set forth in Code Section 35-3-30.

(3) 'Criminal justice agencies' shall have the same meaning as set forth in Code Section 35-3-30.

(4) 'Restrict,' 'restricted,' or 'restriction' means that criminal history record information shall not be disclosed or otherwise made available to any private persons or businesses

pursuant to Code Section 35-3-34 or to governmental agencies or licensing and regulating agencies pursuant to Code Section 35-3-35.

(b) When a case is assigned to an accountability court and the defendant is required to complete a drug court division program, mental health court division program, veterans court division program, or family treatment court division program, as applicable, prior to the entry of the judgment, in contemplation that the defendant's case will be dismissed or nolle prossed, the court may, in its discretion, restrict the dissemination of the defendant's criminal history record information by the Georgia Crime Information Center for the prosecution of the case assigned to such court. The court shall specify the date such restriction shall take effect. The court may revoke such order at any time.

(c)(1) Criminal history record information restricted pursuant to this Code section shall always be available for inspection, copying, and use:

(A) To criminal justice agencies for law enforcement or criminal investigative purposes or for purposes of criminal justice agency employment;

(B) To judicial officials;

(C) By the Judicial Qualifications Commission;

(D) By a prosecuting attorney or public defender who submits a sworn affidavit to the clerk of court that attests that such information is relevant to a criminal proceeding;

(E) Pursuant to a court order; and

(F) By an individual who is the subject of restricted criminal history record information upon court order.

(2) The confidentiality of such information shall be maintained insofar as practical."

SECTION 1-4.

Said title is further amended by revising Code Section 15-11-11, relating to concurrent jurisdiction, as follows:

"15-11-11.

The juvenile court shall have concurrent jurisdiction to hear:

(1) Any legitimization petition filed pursuant to Code Section 19-7-22 concerning a child alleged to be dependent;

(2) Any legitimization petition transferred to the court by proper order of the superior court;

(3) The issue of custody and support when the issue is transferred by proper order of the superior court; provided, however, that if a demand for a jury trial as to support has been properly filed by either parent, then the case shall be transferred to superior court for the jury trial; and

(4) Any petition for the establishment or termination of a temporary guardianship transferred to the court by proper order of the probate court; and
(5) Any criminal case transferred to the court pursuant to subsection (d) of Code Section 15-11-15."

SECTION 1-5.

Said title is further amended by revising Code Section 15-11-15, relating to transfers from superior court, as follows:

"15-11-15.

(a) In handling divorce, alimony, habeas corpus, or other cases involving the custody of a child, a superior court may transfer the question of the determination of custody, support, or custody and support to the juvenile court either for investigation and a report back to the superior court or for investigation and determination.

(b) If the referral is for investigation and determination, then the juvenile court shall proceed to handle the matter in the same manner as though the action originated under this chapter in compliance with the order of the superior court, except that the parties shall not be entitled to obtain an appointed attorney through the juvenile court.

(c) At any time prior to the determination of any ~~such~~ question regarding custody, support, or custody and support, the juvenile court may transfer the jurisdiction of the question back to the referring superior court.

(d) In handling criminal cases involving an accused who is in jeopardy of having his or her parental rights terminated due to criminal charges, a superior court may transfer a criminal case to a family treatment court division of a juvenile court for treatment and a report back to the superior court so long as the prosecuting attorney and accused agree to such transfer; provided, however, that such juvenile court may transfer such case back to the referring superior court at any time."

SECTION 1-6.

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

"15-11-70.

(a)(1) As used in this subsection, the term 'risk and needs assessment' means an actuarial tool, approved by the Council of Accountability Court Judges of Georgia and validated on a targeted population, scientifically proven to determine an individual's risk to recidivate and to identify criminal risk factors that, when properly addressed, can reduce such individual's likelihood of committing future criminal behavior.

(2) Any juvenile court may establish a family treatment court division to provide an alternative to the traditional judicial system for the disposition of dependancy cases and

for assisting superior courts with criminal cases referred to such division under Code Section 15-11-15. The goal of a family treatment court division is to:

(A) Reduce alcohol or drug abuse and addiction for respondents in dependency proceedings;

(B) Improve permanency outcomes for families when dependency is based in part on alcohol or drug use and addiction;

(C) Increase the personal, familial, and societal accountability of respondents in dependency proceedings; and

(D) Promote effective intervention and use of resources among child welfare personnel, law enforcement agencies, treatment providers, community agencies, and the courts.

(3) In any criminal case transferred pursuant to Code Section 15-11-15, when the defendant meets the eligibility criteria for the family treatment court division, such case may be assigned to the family treatment 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.

(4) Each family treatment court division shall establish a planning group to develop a work plan. The planning group shall include the judges, prosecuting attorneys, special assistant attorneys general, public defenders, attorneys who represent children and parents, law enforcement officials, probation officers, community supervision officers, court appointed special advocates, guardians ad litem, and other individuals having expertise in services available to families in dependency proceedings. The work plan shall address the operational, coordination, resource, information management, and evaluation needs of the family treatment court division. The work plan shall include family treatment court division policies and practices related to implementing the standards and practices developed pursuant to paragraph (5) of this subsection. The work plan shall ensure a risk and needs assessment is used to identify the likelihood of recidivating and identify the needs that, when met, reduce recidivism. The work plan shall include eligibility criteria for the family treatment court division. The family treatment court division shall combine judicial supervision, treatment of family treatment court division participants, drug testing, and mental health treatment.

(5)(A) The Council of Accountability Court Judges of Georgia shall establish standards and practices for family treatment court divisions, taking into consideration guidelines and principles based on current research and findings that are published by experts on family treatment health needs and treatment options in a dependency setting. Standards and practices shall include, but shall not be limited to, the use of a risk and needs

349 assessment to identify the likelihood of recidivating and identify the needs that, when
350 met, reduce recidivism. The Council of Accountability Court Judges of Georgia shall
351 update its standards and practices to incorporate research, findings, and developments
352 in the family treatment court field. Each family treatment court division shall adopt
353 policies and practices that are consistent with the standards and practices published by
354 the Council of Accountability Court Judges of Georgia.

355 (B) The Council of Accountability Court Judges of Georgia shall provide technical
356 assistance to family treatment court divisions to assist them with the implementation
357 of policies and practices, including, but not limited to, guidance on the implementation
358 of risk and needs assessments in family treatment court divisions.

359 (C) The Council of Accountability Court Judges of Georgia shall create and manage
360 a certification and peer review process to ensure family treatment court divisions are
361 adhering to the Council of Accountability Court Judges of Georgia's standards and
362 practices and shall create a waiver process for family treatment court divisions to seek
363 an exception to the Council of Accountability Court Judges of Georgia's standards and
364 practices. In order to receive state appropriated funds, any family treatment court
365 division established on and after July 1, 2017, shall be certified pursuant to this
366 subparagraph or, for good cause shown to the Council of Accountability Court Judges
367 of Georgia, shall receive a waiver from the Council of Accountability Court Judges of
368 Georgia.

369 (D) On and after July 1, 2017, the award of any state funds for a family treatment court
370 division shall be conditioned upon a family treatment court division attaining
371 certification or a waiver by the Council of Accountability Court Judges of Georgia. On
372 or before September 1, the Council of Accountability Court Judges of Georgia shall
373 publish an annual report listing certified family treatment court divisions.

374 (E) The Council of Accountability Court Judges of Georgia shall develop and manage
375 an electronic information system for performance measurement and accept submission
376 of performance data in a consistent format from all family treatment court divisions.
377 The Council of Accountability Court Judges of Georgia shall identify elements
378 necessary for performance measurement, including, but not limited to, the number of
379 children reunited with participants in a family treatment court division, drug testing
380 results, drug testing failures, participant employment, the number of participants who
381 successfully complete the program, and the number of participants who fail to complete
382 the program.

383 (F) On or before July 1, 2017, and every three years thereafter, the Council of
384 Accountability Court Judges of Georgia shall conduct a performance peer review of the

family treatment court divisions for the purpose of improving family treatment court division policies and practices and the certification and recertification process.

(6) A court instituting the family treatment court division may request any of the following individuals to serve in the family treatment court division:

(A) One or more prosecuting attorneys designated by the prosecuting attorney for the jurisdiction;

(B) A special assistant attorney general; or

(C) One or more assistant public defenders designated by the public defender, if any.

(7) The clerk of the juvenile court that is instituting the family treatment court division or such clerk's designee shall serve as the clerk of the family treatment court division.

(8) The court instituting the family treatment court division may request community supervision officers, probation officers, and other employees of the court to perform duties for the family treatment court division. Such individuals shall perform duties as directed by the judges of the family treatment court division.

(9) The court instituting the family treatment court division may enter into agreements with other courts and agencies for the assignment of personnel and probation supervision from other courts and agencies to the family treatment court division.

(10) 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 family treatment court division, federal grant funds, and funds from private donations.

(b) Each family treatment court division shall establish criteria which define the successful completion of the family treatment court division program. If the family treatment court division participant who was referred to the family treatment court division on a criminal charge by a superior court successfully completes the family treatment court division program, a report of such completion shall be communicated to the referring superior court judge.

(c) Any statement made by a family treatment court division participant as part of participation in such court division, or any report made by the staff of such court division or program connected to such court division, regarding a participant's substance usage 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 program or is terminated from the family treatment court division, the reasons for the violation or termination may be considered in sanctioning, sentencing, or otherwise disposing of the participant's case.

(d) Notwithstanding any provision of law to the contrary, family treatment court division staff shall be provided, upon request, with access to all records relevant to the treatment of

the family treatment court division participant from any state or local government agency.
All such records and the contents thereof shall be treated as confidential, shall not be
disclosed to any person outside of the family treatment court division, and shall not be
subject to Article 4 of Chapter 18 of Title 50, relating to open records, 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 family treatment court
division and originating court in a confidential file not available to the public.
(e) Any fees received by a family treatment court division from a family treatment court
division participant as payment for substance abuse treatment and services shall not be
considered as court costs or a fine.
(f) The court may have the authority to accept grants, donations, and other proceeds from
outside sources for the purpose of supporting the family treatment court division. Any such
grants, donations, or proceeds shall be retained by the family treatment court division for
expenses."

SECTION 1-7.

Said title is further amended by revising Code Section 15-11-505, relating to the use of detention assessments to determine if detention is warranted, as follows:

"15-11-505.

(a) If an alleged delinquent child is brought before the court, ~~or~~ delivered to a secure residential facility or nonsecure residential facility or foster care facility designated by the court, or otherwise taken into custody, the juvenile court intake officer shall immediately administer a detention assessment and determine if such child should be detained and release such child, taking into account subsection (b) of this Code section. Such child shall be released unless it appears that his or her detention is warranted.

(b)(1) As used in this subsection, the term 'serious delinquent act' means to commit, attempt to commit, conspiracy to commit, or solicitation of another to commit a delinquent act which if committed by an adult would constitute:

(A) Aggravated assault;

(B) Aggravated battery;

(C) Aggravated child molestation;

(D) Aggravated cruelty to animals;

(E) Aggravated sexual battery;

(F) Aggravated sodomy;

(G) Armed robbery involving a firearm;

(H) Arson in the first degree;

(I) Burglary in the first degree;

(J) Child molestation;

(K) Escape;

(L) Hijacking a motor vehicle;

(M) Home invasion in the first or second degree;

(N) Involuntary manslaughter;

(O) Murder;

(P) Participating in criminal gang activity, as defined in subparagraphs (A) through (G) and (J) of paragraph (1) of Code Section 16-15-3, in violation of Code Section 16-15-4;

(Q) Rape;

(R) Robbery;

(S) Sexual exploitation of children;

(T) Smash and grab burglary;

(U) Trafficking of substances in violation of Code Section 16-13-31 or 16-13-31.1;

(V) Vehicular homicide; or

(W) Voluntary manslaughter.

(2) When a child who is 13 years of age or younger is taken into custody as provided in subsection (a) of this Code section for any delinquent act other than a serious delinquent act, there shall be a presumption that such child should not be detained."

SECTION 1-8.

Said title is further amended by revising subsection (b) of Code Section 15-11-710, relating to exchange of information, as follows:

"(b) Governmental entities and state, county, municipal, or consolidated government departments, boards, or agencies shall exchange with each other all information not held as confidential pursuant to federal law and relating to a child which may aid a governmental entity in the assessment, treatment, intervention, or rehabilitation of a child, notwithstanding Code Section 15-1-15, 15-1-19, 15-11-40, 15-11-70, 15-11-105, 15-11-170, 15-11-264, 15-11-541, 15-11-542, 15-11-603, 15-11-708, 15-11-709, 15-11-744, 20-2-751.2, 20-14-40, 24-12-10, 24-12-11, 24-12-20, 26-4-5, 26-4-80, 26-5-17, 31-5-5, 31-33-6, 37-1-53, 37-2-9.1, 42-5-36, 42-8-40, 42-8-109.2, 49-5-40, 49-5-41, 49-5-41.1, 49-5-44, 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best interests of such child. Information which is shared pursuant to this subsection shall not be utilized to assist in the prosecution of a child in juvenile, superior, or state court or utilized to the detriment of such child."

SECTION 1-9.

Said title is further amended by revising subsection (a) of Code Section 15-18-80, relating to policy and procedure for Pretrial Intervention and Diversion Programs, as follows:

"(a) The prosecuting attorneys for each judicial circuit of this state shall be authorized to create and administer a Pretrial Intervention and Diversion Program. The prosecuting attorney for state courts, probate courts, magistrate courts, municipal courts, and any other court that hears cases involving a violation of the criminal laws of this state or ordinance violations shall also be authorized to create and administer a Pretrial Intervention and Diversion Program for offenses within the jurisdiction of such courts. Upon the request of the district attorney or solicitor and with the advice and express written consent of such attorney, the state or local governing authority may enter into a written contract with any entity or individual for the purpose of monitoring program participants' compliance with a Pretrial Intervention and Diversion Program."

SECTION 1-10.

Said title is further amended by revising subsection (a) of Code Section 15-21-100, relating to imposition of additional penalty for certain offenses, as follows:

"(a)(1) In every case in which any court shall impose a fine, which shall be construed to include costs, for any offense prohibited by Code Section 16-13-30, 16-13-30.1, 16-13-30.2, 16-13-30.3, 16-13-30.5, 16-13-31, 16-13-31.1, 16-13-32, 16-13-32.1, 16-13-32.2, 16-13-32.3, 16-13-32.4, 16-13-32.5, or 16-13-32.6, there shall be imposed as an additional penalty a sum equal to 50 percent of the original fine. The additional 50 percent penalty shall also be imposed in every case in which a fine is imposed for violation of:

~~(1)(A)~~ Code Section 3-3-23.1;

~~(2)(B)~~ Code Section 40-6-391; ~~or~~

~~(3)(C)~~ Code Section 40-6-393 or 40-6-394 if the offender was also charged with a violation of Code Section 40-6-391; or

(D) Code Section 52-7-12.

(2) If no fine is provided for in the applicable Code section, and the judge places the defendant on probation, the fine authorized by Code Section 17-10-8 shall be applicable."

SECTION 1-11.

Said title is further amended by revising subsection (b) of Code Section 15-21-101, relating to collection of fines and authorized expenditures of funds from County Drug Abuse Treatment and Education Fund, as follows:

"(b) Moneys collected pursuant to this article and placed in the 'County Drug Abuse Treatment and Education Fund' shall be expended by the governing authority of the county for which the fund is established solely and exclusively:

(1) For drug abuse treatment and education programs relating to controlled substances, alcohol, and marijuana; ~~and~~

(2) If a drug court division has been established in the county under Code Section 15-1-15, for purposes of the drug court division;

(3) If an operating under the influence court division has been established in the county under Code Section 15-1-19, for the purposes of the operating under the influence court division; and

(4) If a family treatment court division has been established in the county under Code Section 15-11-70, for the purposes of the family treatment court division.

(c) This article shall not preclude the appropriation or expenditure of other funds by the governing authority of any county or by the General Assembly for the purpose of drug abuse treatment or education programs, or drug court divisions, operating under the influence court divisions, or family treatment court divisions."

PART II

CHARTER SCHOOLS IN DEPARTMENT OF CORRECTIONS AND

DEPARTMENT OF JUVENILE JUSTICE FACILITIES

SECTION 2-1.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by revising paragraphs (1) and (8) of subsection (b) of Code Section 20-2-133, relating to free public instruction for elementary and secondary education, as follows:

"(b)(1) Any child, except a child in a secure residential facility as defined in Code Section 15-11-2, as specifically provided in this paragraph, who is in the physical or legal custody of the Department of Juvenile Justice or the Department of Human Services; in a placement operated by the Department of Human Services or the Department of Behavioral Health and Developmental Disabilities; or in a facility or placement paid for by the Department of Juvenile Justice, the Department of Human Services or any of its divisions, or the Department of Behavioral Health and Developmental Disabilities and who is physically present within the geographical area served by a local unit of administration for any length of time is eligible for enrollment in the educational programs of that local unit of administration; provided, however, that the child meets the age eligibility requirements established by this article. ~~The~~ Except for children who are committed to the Department of Juvenile Justice and receiving education services under

Code Section 20-2-2084.1, the local unit of administration of the school district in which such child is present shall be responsible for the provision of all educational programs, including special education and related services, at no charge so long as the child is physically present in the school district. A child shall be considered in the physical or legal custody of the Department of Juvenile Justice or the Department of Human Services or any of its divisions if custody has been awarded either temporarily or permanently by court order or by voluntary agreement, or if the child has been admitted or placed according to an individualized treatment or service plan of the Department of Human Services. A child shall be considered in a facility or placement paid for or operated by the Department of Behavioral Health and Developmental Disabilities if the child has been admitted or placed according to an individualized treatment or service plan of the Department of Behavioral Health and Developmental Disabilities. No child in a secure residential facility as defined in Code Section 15-11-2, regardless of his or her custody status, shall be eligible for enrollment in the educational programs of the local unit of administration of the school district in which such facility is located. No child or youth in the custody of the Department of Corrections or the Department of Juvenile Justice and confined in a facility as a result of a sentence imposed by a court shall be eligible for enrollment in the educational programs of the local unit of administration of the school district where such child or youth is being held; provided, however, that such child or youth may be eligible for enrollment in a state charter school pursuant to Code Section 20-2-2084.1."

"(8) The Department of Education, the State Charter Schools Commission, the Department of Human Services, the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, and the local units of administration where Department of Education, State Charter Schools Commission, Department of Juvenile Justice, Department of Behavioral Health and Developmental Disabilities, or Department of Human Services placements, facilities, or contract facilities are located shall jointly develop procedures binding on all agencies implementing the provisions of this Code section applicable to children and youth in the physical or legal custody of the Department of Juvenile Justice, under the care or physical or legal custody of the Department of Human Services, or under the physical custody of the Department of Behavioral Health and Developmental Disabilities."

SECTION 2-2.

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

594 "20-2-2084.1.
595 A state charter school shall be authorized, upon the approval of the commission, to enter
596 into a contract with the Department of Juvenile Justice or the Department of Corrections
597 to operate a school and deliver education services to school age children or youth
598 incarcerated within any facility of the Department of Corrections or incarcerated within or
599 committed to the Department of Juvenile Justice. Any children or youth receiving
600 education services through a state charter school in such manner shall be considered
601 students enrolled in and attending the state charter school for purposes of funding pursuant
602 to Code Section 20-2-2089."

603 **SECTION 2-3.**

604 Said title is further amended by revising Code Section 20-2-2090, relating to collaborative
605 efforts on matters related to authorization of state charter schools and administration, as
606 follows:

607 "20-2-2090.

608 The commission shall work in collaboration with the department on all matters related to
609 authorizing state charter schools and shall be assigned to the department for administrative
610 purposes only, as prescribed in Code Section 50-4-3. For administrative purposes,
611 including data reporting, student enrollment counting procedures, student achievement
612 reporting, funding allocations, and related purposes as defined by the State Board of
613 Education, each state charter school, including any students receiving education services
614 through a state charter school pursuant to Code Section 20-2-2084.1, shall, consistent with
615 department rules and regulations, be treated as a single local education agency."

616 **SECTION 2-4.**

617 Said title is further amended by revising subsection (d) of Code Section 20-2-2114, relating
618 to qualifications for the scholarship program for special needs students, as follows:

619 "(d) Students enrolled in a school operated by the Department of Juvenile Justice or
620 operated by a state charter school on behalf of the Department of Juvenile Justice pursuant
621 to Code Section 20-2-2084.1 are not eligible for the scholarship."

622 **SECTION 2-5.**

623 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
624 by revising Code Section 42-2-5.1, relating to the Department of Corrections as a special
625 school district for school age youth, as follows:

"42-2-5.1.

(a) In order to provide education for any school age ~~youths~~ youth incarcerated within any facility of the department, the department shall be considered a special school district which shall be given the same funding consideration for federal funds that school districts within ~~the~~ this state are given. The special school district under the department shall have the powers, privileges, and authority exercised or capable of exercise by any other school district. The schools within the special school district shall be under the control of the commissioner, who shall serve as the superintendent of schools for such district, except as otherwise provided in subsection (b) of this Code section. The board shall serve as the board of education for such district. The board, acting alone or in cooperation with the State Board of Education, shall establish education standards for the district. As far as is practicable, such standards shall adhere to the standards adopted by the State Board of Education for the education of school age youth, while taking into account:

(1) The overriding security needs of correctional institutions and other restrictions inherent to the nature of correctional facilities;

(2) The effect of limited funding on the capability of the department to meet certain school standards; and

(3) Existing juvenile education standards of the Correctional Education Association and the American Correctional Association, which shall be given primary consideration where any conflicts arise.

(b) Any school within the department that is operated by a state charter school pursuant to a contract entered into in accordance with Code Section 20-2-2084.1 shall be under the control of the State Charter Schools Commission and the governing board of the state charter school, subject to any conditions in the contract. Any such school shall not be considered a part of the special school district established pursuant to this Code section.

~~(b)~~(c) The effect of subsection (a) of this Code section shall not be to provide state funds to the special school district under the department through Part 4 of Article 6 of Chapter 2 of Title 20, except as otherwise provided in Code Section 20-2-2084.1."

SECTION 2-6.

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended by revising Code Section 49-4A-12, relating to the Department of Juvenile Justice as a special school district, as follows:

"49-4A-12.

(a) The Department of Juvenile Justice shall be a special school district which shall be given the same funding consideration for federal funds that school districts within ~~the~~ this state are given.

(b)(1) Except as otherwise provided in paragraph (2) of this subsection, the The schools within the department shall be under the control of the commissioner who shall serve as the superintendent of schools for such district. The Board of Juvenile Justice shall serve as the board of education for such district.

(2) Any school within the department that is operated by a state charter school pursuant to a contract entered into in accordance with Code Section 20-2-2084.1 shall be under the control of the State Charter Schools Commission and the governing board of the state charter school, subject to any conditions in the contract. Any such school shall not be considered a part of the special school district established pursuant to this Code section.

(c)(1) The schools shall meet the requirements of the law for public schools and rules and regulations of the State Board of Education. It is the intent of this Code section to fund educational services and programs in this special school district so that youth served therein shall receive the same quality and content of educational services as provided to youth in school districts within ~~the~~ this state.

(2) The State School Superintendent may grant waivers for such provisions of the laws and regulations with which the schools cannot comply because of their functioning on an annual basis and in response to the commissioner or the commissioner's designee's written request and justification. Such exceptions shall be in writing.

(d)(1) Each teacher in the special school district shall receive annual compensation at the rate specified for the type of certificate held by such teacher based on the appropriate teacher salary schedules established pursuant to Code Section 20-2-212.

(2) This provision shall not act to reduce the compensation currently paid any teacher in the special school district.

(3) To the extent such resources are available, federal funding resources shall be utilized to meet increased costs resulting from implementation of this subsection.

(e) The commissioner shall develop and implement a plan whereby there shall be sufficient substitute teachers available for temporary service as needed for each school composing the special school district.

(f)(1) Nothing in the language of this Code section shall be construed as prohibiting any local school district from issuing a diploma to a youth in the custody of the department, upon certification of the principal of a departmental school.

(2) School records of any juvenile in the department's programs who is issued a diploma by a local school district shall be maintained by such local school district, provided that all references to the juvenile's commitment to and treatment by the department are expunged.

(g) The special school district under the department shall have the powers, privileges, and authority exercised or capable of exercise by any other school district.

699 (h) The effect of this Code section shall not be to provide state funds to the special school
700 district under the department through Part 4 of Article 6 of Chapter 2 of Title 20, except
701 as otherwise provided in Code Section 20-2-2084.1."

702 PART III
703 SCHOOL DISCIPLINE
704 SECTION 3-1.

705 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
706 revising Code Section 20-2-759, which was previously reserved, as follows:

707 "20-2-759.

708 The State Board of Education shall promulgate rules and regulations to require minimum
709 qualifications for hearing officers, disciplinary hearing officers, tribunals, and panels that
710 are tasked with hearing matters in this subpart. The State Board of Education shall
711 promulgate rules and regulations to ensure that such individuals have initial training prior
712 to serving as a hearing officer or disciplinary hearing officer or on a tribunal or panel,
713 undergo continuing education so as to continue to serve in such capacity, and function as
714 independent, neutral arbiters. Reserved."

715 SECTION 3-2.

716 Said title is further amended by revising Code Section 20-2-1181, relating to disruption or
717 interference with operation of public schools, as follows:

718 "20-2-1181.

719 (a) It shall be unlawful for any person to knowingly, intentionally, or recklessly disrupt or
720 interfere with the operation of any public school, public school bus, or public school bus
721 stop as designated by local ~~school~~ boards of education. ~~Any~~ Except as provided in
722 subsection (b) of this Code section, a person convicted of violating this Code section shall
723 be guilty of a misdemeanor of a high and aggravated nature.

724 (b)(1) As used in this subsection, the term 'complaint' shall have the same meaning as set
725 forth in Code Section 15-11-2.

726 (2) A local board of education shall develop a system of progressive discipline that may
727 be imposed on a child accused of violating this Code section before initiating a
728 complaint.

729 (3) When a complaint is filed involving a violation of this Code section by a child not
730 included in paragraph (4) of this subsection, it shall include information showing that the
731 local board of education sought to:

732 (A) Resolve the expressed problem through available educational approaches; and

(B) Engage the child's parent, guardian, or legal custodian to resolve the expressed problem and that such individual has been unable or unwilling to resolve the expressed problem, that the expressed problem remains, and that court intervention is necessary.

(4) When a complaint is filed involving a violation of this Code section by a child who is eligible for or suspected to be eligible for services under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973, it shall include information showing that the local board of education:

(A) Has determined that such child is eligible or suspected to be eligible for services under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973;

(B) Has reviewed for appropriateness such child's current Individualized Education Program (IEP) and placement and has made modifications where appropriate;

(C) Sought to resolve the expressed problem through available educational approaches;

and

(D) Sought to engage the child's parent, guardian, or legal custodian to resolve the expressed problem and that such individual has been unable or unwilling to resolve the expressed problem, that the expressed problem remains, and that court intervention is necessary."

SECTION 3-3.

Said title is further amended by revising Code Section 20-2-1183, which was previously reserved, as follows:

"20-2-1183.

When a local school system assigns or employs law enforcement officers in schools, the local board of education shall have a collaborative written agreement with law enforcement officials to establish the role of law enforcement and school employees in school disciplinary matters and ensure coordination and cooperation among officials, agencies, and programs involved in school discipline and public protection. Reserved."

PART IV

DRIVING PRIVILEGES

SECTION 4-1.

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, is amended by adding a new Code section to read as follows:

765 "40-5-9.

766 (a) A pauper's affidavit may be filed in lieu of paying the driver's license reinstatement or
767 restoration fee otherwise required by this chapter. An individual filing a pauper's affidavit
768 shall under oath affirm his or her poverty and his or her resulting inability to pay the
769 driver's license reinstatement or restoration fee otherwise required by this chapter. The
770 form of the affidavit shall be prescribed by the commissioner and shall indicate on its face
771 that such individual has neither the income nor the assets to pay the fee otherwise required.
772 The following warning shall be printed on the affidavit form prepared by the
773 commissioner, to wit: 'WARNING: Any person knowingly making any false statement on
774 this affidavit commits the offense of false swearing and shall be guilty of a felony.'

775 (b) Upon the submission of a pauper's affidavit, the driver's license reinstatement or
776 restoration fee shall be 50 percent of the fee required by law."

777 **SECTION 4-2.**

778 Said chapter is further amended by revising Code Section 40-5-22.1, relating to reinstatement
779 of license of child under 16 years convicted of driving under the influence of alcohol or
780 drugs, as follows:

781 "40-5-22.1.

782 Notwithstanding any other provision of law, if a child under 16 years of age is adjudicated
783 delinquent of driving under the influence of alcohol or drugs ~~or of possession of marijuana~~
784 ~~or a controlled substance in violation of Code Section 16-13-30 or of the unlawful~~
785 ~~possession of a dangerous drug in violation of Code Section 16-13-72~~ or convicted in any
786 other court of such offenses, the court shall order that the privilege of such child to apply
787 for and be issued a driver's license or learner's permit shall be suspended and delayed until
788 such child is 17 years of age for a first conviction and until such child is 18 years of age for
789 a second or subsequent such conviction. Upon reaching the required age, such license
790 privilege shall be reinstated if the child submits proof of completion of a DUI Alcohol or
791 Drug Use Risk Reduction Program or an assessment and intervention program approved
792 by the juvenile court and pays a reinstatement fee to the Department of Driver Services.
793 The reinstatement fee for a first such conviction shall be \$210.00 or \$200.00 if paid by
794 mail. The reinstatement fee for a second such conviction shall be \$310.00 or \$300.00 if
795 paid by mail. The reinstatement fee for a third or subsequent such conviction shall be
796 \$410.00 or \$400.00 if paid by mail. The court shall notify the department of its order
797 delaying the issuance of such child's license within 15 days of the date of such order. The
798 department shall not issue a driver's license or learner's permit to any person contrary to a
799 court order issued pursuant to this Code section."

SECTION 4-3.

Said chapter is further amended by revising subsection (e) of Code Section 40-5-61, relating to surrender and return of license, and by adding a new subsection to read as follows:

"(e)(1) For the purpose of making any determination under this Code section relating to the return of revoked or suspended licenses to drivers, the period of revocation or suspension shall begin on the date the license is surrendered to the department or a court of competent jurisdiction under any provision of this chapter or on the date that the department processes the citation or conviction, whichever date shall first occur.

(2) If the license is lost, or for any other reason surrender to the department is impossible, the period of revocation or suspension may begin on the date set forth in a sworn affidavit setting forth the date and reasons for such impossibility, if the department shall have sufficient evidence to believe that the date set forth in such affidavit is true; in the absence of such evidence, the date of receipt of such affidavit by the department shall be controlling.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a period of revocation or suspension may begin on the date a person is sentenced for an offense that also results in the revocation or suspension of his or her driver's license or driving privileges.

(f) When a person serving a sentence has his or her driver's license or driving privileges concurrently revoked or suspended with the imposition of his or her sentence, the department shall credit the time served under such sentence toward the fulfillment of the period of revocation or suspension."

SECTION 4-4.

Said chapter is further amended by revising Code Section 40-5-62, relating to periods of revocation and conditions to restoration of license or issuance of new license, as follows:

"40-5-62.

(a) Unless the revocation was for a cause which has been removed, any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be eligible to apply for a new license nor restoration of his or her nonresident's operating privilege until the earlier of:

(1) Five years from the date on which the revoked license was surrendered to and received by the department pursuant to a person's having been declared a habitual violator under Code Section 40-5-58 ~~or~~;

(2) Five years from the date on which a person is sentenced for the offense that resulted in his or her driver's license or driving privileges being revoked;

(3) Five years from the date on which the department processed the citation or conviction, reduced by a period of time equal to that period of time which elapses

between the date the person surrenders his or her driver's license to the court after conviction for the offense for which the person is declared a habitual violator and the date the department receives such license from the court; or

(2)(4) Such time as any cause for revocation under subsection (b) of Code Section 40-5-59 has been removed.

(b) When a person serving a sentence has his or her driver's license or driving privileges concurrently revoked with the imposition of his or her sentence, the department shall credit the time served under such sentence toward the fulfillment of the period of revocation.

~~(b)(c)~~ The department shall not issue a new license nor restore a person's suspended license or nonresident's operating privilege unless and until it is satisfied after investigation of the character, habits, and driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. Notwithstanding subsection (a) of this Code section or any other provision of this title, the department shall not issue a new license to any person whose license was revoked as a habitual violator for three violations of Code Section 40-6-391 within a five-year period unless and until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program. The department may issue rules and regulations providing for reinstatement hearings. In the case of a revocation pursuant to Code Section 40-5-58, the department shall charge a fee of \$410.00 or \$400.00 if processed by mail in addition to the fee prescribed by Code Section 40-5-25 to issue a new driver's license to a person whose driver's license has been revoked."

SECTION 4-5.

Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section 40-5-63, relating to periods of suspension, as follows:

"(3) Upon the third conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, such person shall be considered a habitual violator, and ~~said~~ such license shall be revoked as provided for in ~~paragraph (1)~~ paragraphs (1) through (3) of subsection (a) of Code Section 40-5-62. For purposes of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within such five-year period shall constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere and all prior accepted pleas of nolo contendere to a charge of violating Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest

871 for which a plea of nolo contendere is accepted, shall be considered and counted as
872 convictions."

873 **SECTION 4-6.**

874 Said chapter is further amended by revising subsections (c), (c.1), and (e) of Code Section
875 40-5-64, relating to limited driving permits for certain offenders, as follows:

876 "(c) **Standards for approval.** The department shall issue a limited driving permit if the
877 application indicates that refusal to issue such permit would cause extreme hardship to the
878 applicant. Except as otherwise provided by subsection (c.1) of this Code section, for the
879 purposes of this Code section, the term 'extreme hardship' means that the applicant cannot
880 reasonably obtain other transportation, and therefore the applicant would be prohibited
881 from:

882 (1) Going to his or her place of employment or performing the normal duties of his or
883 her occupation;

884 (2) Receiving scheduled medical care or obtaining prescription drugs;

885 (3) Attending a college or school at which he or she is regularly enrolled as a student;

886 (4) Attending regularly scheduled sessions or meetings of support organizations for
887 persons who have addiction or abuse problems related to alcohol or other drugs, which
888 organizations are recognized by the commissioner;

889 (5) Attending under court order any driver education or improvement school or alcohol
890 or drug program or course approved by the court which entered the judgment of
891 conviction resulting in suspension of his or her driver's license or by the commissioner;

892 (6) Attending court, reporting to a community supervision, juvenile probation, or
893 Article 6 of Chapter 8 of Title 42 probation office, ~~or~~ reporting to a community
894 supervision officer, county or Department of Juvenile Justice juvenile probation officer,
895 or probation officer serving pursuant to Article 6 of Chapter 8 of Title 42, or performing
896 community service; ~~or~~

897 (7) Transporting an immediate family member who does not hold a valid driver's license
898 for work, to obtain medical care; or prescriptions, or to school; or

899 (8) Attending any program, event, treatment, or activity ordered by a judge presiding in
900 an accountability court, as such term is defined in Code Section 15-1-18.

901 (c.1) **Exception to standards for approval.**

902 (1) The provisions of paragraphs (2), (3), (4), and (5) of subsection (c) of this Code
903 section shall not apply and shall not be considered for purposes of granting a limited
904 driving permit or imposing conditions thereon under this Code section in the case of a
905 driver's license suspension under paragraph (2) of subsection (a.1) of Code Section
906 40-5-22.

(2) An ignition interlock device limited driving permit shall be restricted to allow the holder thereof to drive solely for the following purposes:

(A) Going to his or her place of employment or performing the normal duties of his or her occupation;

(B) Receiving scheduled medical care or obtaining prescription drugs;

~~(B)(C)~~ Attending a college or school at which he or she is regularly enrolled as a student;

~~(C)(D)~~ Attending regularly scheduled sessions or meetings of treatment support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner; ~~and~~

(E) Attending under court order any driver education or improvement school or alcohol or drug program or course approved by the court which entered the judgment of conviction resulting in suspension of his or her driver's license or by the commissioner;

(F) Attending court, reporting to a community supervision, juvenile probation, or Article 6 of Chapter 8 of Title 42 probation office, reporting to a community supervision officer, county or Department of Juvenile Justice juvenile probation officer, or probation officer serving pursuant to Article 6 of Chapter 8 of Title 42, or performing community service;

(G) Transporting an immediate family member who does not hold a valid driver's license for work, to obtain medical care or prescriptions, or to school;

(H) Attending any program, event, treatment, or activity ordered by a judge presiding in an accountability court, as such term is defined in Code Section 15-1-18; or

~~(D)(I)~~ Going for monthly monitoring visits with the permit holder's ignition interlock device service provider."

"(e) Fees, duration, renewal, and replacement of permit.

(1) A limited driving permit issued pursuant to this Code section shall be \$25.00 and shall become invalid upon the driver's eighteenth birthday in the case of a suspension under paragraph (2) of subsection (a.1) of Code Section 40-5-22, upon the expiration of one year following issuance thereof in the case of a suspension for an offense listed in Code Section 40-5-54 or a suspension under Code Section 40-5-57 or a suspension in accordance with paragraph (1) of subsection (a) of Code Section 40-5-63 for a violation of Code Section 40-6-391, or upon the expiration of 30 days in the case of an administrative license suspension in accordance with paragraph (1) of subsection (a) of Code Section 40-5-67.2; except that such limited driving permit shall expire upon any earlier reinstatement of the driver's license. A person may apply to the department for a limited driving permit immediately following such conviction if he or she has surrendered his or her driver's license to the court in which the conviction was adjudged

or to the department if the department has processed the citation or conviction. Upon the applicant's execution of an affidavit attesting to such facts and to the fact that the court had not imposed a suspension or revocation of his or her driver's license or driving privileges inconsistent with the driving privileges to be conferred by the limited driving permit applied for, the department may issue such person a limited driving permit. ~~Permits~~ Limited driving permits issued pursuant to this Code section are renewable upon payment of a renewal fee of \$5.00. ~~Permits~~ Such permits may be renewed ~~until one time~~ after the person has his or her license reinstated is eligible to reinstate his or her driver's license for the violation that was the basis of the issuance of the permit. Upon payment of a fee in an amount the same as that provided by Code Section 40-5-25 for issuance of a Class C driver's license, a person may be issued a replacement for a lost or destroyed limited driving permit issued to him or her.

(2) An ignition interlock device limited driving permit shall be valid for a period of one year. Upon successful completion of one year of monitoring of such ignition interlock device, the restriction for maintaining and using such ignition interlock device shall be removed, and ~~the such~~ such permit may be renewed for additional periods of two months ~~as provided in paragraph (1) of this subsection upon payment of a renewal fee of \$5.00, but it may only be renewed one time after such person is eligible to reinstate his or her driver's license."~~

SECTION 4-7.

Said chapter is further amended by revising Code Section 40-5-75, relating to suspension of licenses by operation of law, as follows:

"40-5-75.

(a) The driver's license of any person convicted of driving or being in actual physical control of any moving vehicle while under the influence of a controlled substance or marijuana in violation of paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391, or the equivalent law of any other jurisdiction, shall by operation of law be suspended, and such suspension shall be subject to the following terms and conditions:

(1) Upon the first conviction of any such offense, with no arrest and conviction of and no plea of nolo contendere accepted to such offense within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for not less than 180 days. At the end of 180 days, the person may apply to the department for reinstatement of his or her driver's license. Such license shall be reinstated only if the person submits proof of completion of a DUI Alcohol or Drug Use

Risk Reduction Program and pays to the department a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail;

(2) Upon the second conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for three years, provided that after one year from the date of the conviction, the person may apply to the department for reinstatement of his or her driver's license by submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying to the department a restoration fee of \$310.00 or \$300.00 when such reinstatement is processed by mail; and

(3) Upon the third or subsequent conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, such person's license shall be suspended for a period of five years. A driver's license suspension imposed under this paragraph shall run concurrently with and shall be counted toward the fulfillment of any period of revocation imposed under Code Sections 40-5-58 and 40-5-62, provided that such revocation arose from the same act for which the suspension was imposed. At the end of two years, the person may apply to the department for a three-year driving permit upon compliance with the following conditions:

(A) Such person has not been convicted or pleaded nolo contendere to any drug related offense, including driving under the influence, for a period of two years immediately preceding the application for such permit;

(B) Such person submits proof of completion of a licensed drug treatment program. Such proof shall be submitted within two years of the license suspension and prior to the issuance of the three-year driving permit. Such licensed drug treatment program shall be paid for by the offender. The offender shall pay a permit fee of \$25.00 to the department;

(C) Such person submits proof of financial responsibility as provided in Chapter 9 of this title; and

(D) Refusal to issue such permit would cause extreme hardship to the applicant. For the purposes of this subparagraph, the term 'extreme hardship' means that the applicant cannot reasonably obtain other transportation, and, therefore, the applicant would be prohibited from:

(i) Going to his or her place of employment or performing the normal duties of his or her occupation;

(ii) Receiving scheduled medical care or obtaining prescription drugs;

(iii) Attending a college or school at which he or she is regularly enrolled as a student; or

(iv) Attending regularly scheduled sessions or meetings of support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner.

Any three-year driving permittee who is convicted of violating any state law or local ordinance relating to the movement of vehicles or any such permittee who is convicted of violating the conditions endorsed on his or her three-year driving permit shall have his or her permit revoked by the department. Any court in which such conviction is had shall require the permittee to surrender the three-year driving permit to the court, and the court shall forward it to the department within ten days after the conviction, with a copy of the conviction. Any person whose ~~limited~~ three-year driving permit has been revoked shall not be eligible to apply for a driver's license until six months from the date such permit was surrendered to the department. At the end of five years from the date on which the license was suspended, the person may apply to the department for reinstatement of his or her driver's license by submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying to the department a restoration fee of \$410.00 or \$400.00 when such reinstatement is processed by mail. The restoration fee paid to reinstate a driver's license that was suspended under this paragraph shall be counted toward the fulfillment of the restoration fee required by subsection (c) of Code Section 40-5-62, provided that such revocation arose from the same act for which the suspension was imposed.

(b) Except as provided in Code Section 40-5-76, whenever a person is convicted of driving or being in actual physical control of any moving vehicle while under the influence of a controlled substance or marijuana in violation of paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391, or the equivalent law of any other jurisdiction, the court in which such conviction is had shall require the surrender to it of any driver's license then held by the person so convicted, and the court shall thereupon forward such license and a copy of its order to the department within ten days after the conviction. The periods of suspension provided for in this Code section shall ~~begin on the date of surrender of the driver's license or on the date that the department processes the conviction or citation, whichever shall first occur~~ be governed by subsection (e) of Code Section 40-5-61.

(c) Application for reinstatement of a driver's license under paragraph (1), ~~or (2), or (3)~~ of subsection (a) of this Code section shall be made on such forms as the commissioner may prescribe and shall be accompanied by proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail. Application for a three-year driving permit under

paragraph (3) of subsection (a) of this Code section shall be made on such form as the commissioner may prescribe and shall be accompanied by proof of completion of an approved residential drug treatment program and a fee of \$25.00 for such permit.

(d) Notwithstanding any other provision of this Code section or any other provision of this chapter, any person whose license is suspended pursuant to this Code section shall not be eligible for early reinstatement of his or her license and shall not be eligible for a limited driving permit, but such person's license shall be reinstated only as provided in this Code section or Code Section 40-5-76.

(e) Except as provided in subsection (a) of this Code section, it shall be unlawful for any person to operate any motor vehicle in this state after such person's license has been suspended pursuant to this Code section if such person has not thereafter obtained a valid license. Any person who is convicted of operating a motor vehicle before the department has reinstated such person's license or issued such person a three-year driving permit shall be punished by a fine of not less than \$750.00 nor more than \$5,000.00 or by imprisonment in the penitentiary for not more than 12 months, or both.

(f) Licensed drivers who are 16 years of age who are adjudicated in a juvenile court pursuant to this Code section may, at their option, complete a DUI Alcohol or Drug Use Risk Reduction Program or an assessment and intervention program approved by the juvenile court.

(g)(1) Upon the effective date of this subsection, the department shall be authorized to reinstate, instantaneously, a driver's license that was suspended pursuant to this Code section for a violation of Article 2 of Chapter 13 of Title 16, or the equivalent law of any other jurisdiction, that occurred prior to July 1, 2015, provided that the driver's license has not been previously reinstated. The provisions of this paragraph shall not apply to a suspension imposed pursuant to this Code section for a violation of paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391, or the equivalent law of any jurisdiction, that occurred prior to July 1, 2015, unless ordered by a judge presiding in a drug court division, mental health court division, veterans court division, or operating under the influence court division in accordance with subsection (a) of Code Section 40-5-76.
~~Notwithstanding any other provision of this chapter to the contrary, the suspension imposed pursuant to this Code section shall be in addition to and run consecutively to any other suspension imposed by the department at the time of the conviction that results in said suspension. If the person has never been issued a driver's license in the State of Georgia or holds a driver's license issued by another state, the person shall not be eligible for a driver's license for the applicable period of suspension following his or her submission of an application for issuance thereof.~~

(2) The department shall make a notation of a suspended driver's license that is reinstated pursuant to paragraph (1) of this subsection on a person's driving record, and such information shall be made available in accordance with Code Section 40-5-2.

(3) The driver's license or driving privileges of any person who has a driver's license reinstated in accordance with paragraph (1) of this subsection shall remain subject to any and all applicable disqualifications specified in Article 7 of this chapter.

(4) The department may promulgate rules and regulations as are necessary to implement this subsection."

SECTION 4-8.

Said chapter is further amended by revising Code Section 40-5-76, relating to restoration or suspension of defendant's driver's license or issuance of limited driving permit, as follows:
"40-5-76.

(a) A judge presiding in a drug court division, mental health court division, or veterans court division, or operating under the influence court division may order the department to ~~restore~~ reinstate a defendant's driver's license that has been or should be suspended pursuant to Code Section 40-5-75, suspend such license, or issue a defendant a limited driving permit or ignition interlock device limited driving permit in accordance with the provisions set forth in subsections (c), (c.1), and (d) of Code Section 40-5-64 or with whatever conditions the court determines to be appropriate under the circumstances as a reward or sanction to the defendant's behavior in such court division. The court shall determine what fees, if any, shall be paid to the department for such reward or sanction, provided that such fee shall not be greater than the fee normally imposed for such services.

(b) A judge presiding in any court, other than the court divisions specified in subsection (a) of this Code section, may order the department to ~~restore~~ reinstate a defendant's driver's license that has been or should be suspended pursuant to Code Section 40-5-75 or issue a defendant a limited driving permit or ignition interlock device limited driving permit in accordance with the provisions set forth in subsections (c), (c.1), and (d) of Code Section 40-5-64 if the offense for which the defendant was convicted did not directly relate to the operation of a motor vehicle. The court shall determine what fees, if any, shall be paid to the department for the ~~restoration~~ reinstatement of such driver's license or issuance of such limited driving permit or ignition interlock device limited driving permit, provided that such fee shall not be greater than the fee normally imposed for such services. Such judge may also order the department to suspend a defendant's driver's license that could have been suspended pursuant to Code Section 40-5-75 as a consequence of the defendant's violation of the terms of his or her probation.

1123 (c)(1) The department shall make a notation on a person's driving record when his or her
1124 driver's license was reinstated or suspended or he or she was issued a limited driving
1125 permit or ignition interlock device limited driving permit under this Code section, and
1126 such information shall be made available in accordance with Code Section 40-5-2.

1127 (2) The driver's license of any person who has a driver's license reinstated or suspended
1128 in accordance with this Code section shall remain subject to any applicable
1129 disqualifications specified in Article 7 of this chapter.

1130 (d) The department shall credit any time during which a defendant was issued a limited
1131 driving permit or ignition interlock device limited driving permit under subsection (a) of
1132 this Code section toward the fulfillment of the period of a driver's license suspension for
1133 which such permit was issued."

1134 **SECTION 4-9.**

1135 Said chapter is further amended by revising paragraph (1) of subsection (b) of Code Section
1136 40-5-121, relating to driving while license is suspended or revoked, as follows:

1137 "(b)(1) The department, upon receiving a record of the conviction of any person under
1138 this Code section upon a charge of driving a vehicle while the license of such person was
1139 suspended, disqualified, or revoked, including suspensions under subsection (e) of Code
1140 Section 40-5-75, shall ~~extend the period of~~ impose an additional suspension or
1141 disqualification by of six months. Upon the expiration of six months ~~from the date on~~
1142 ~~which the suspension or disqualification is extended and payment of the applicable~~
1143 ~~reinstatement fee~~, the department shall reinstate the license. The reinstatement fee for a
1144 first such conviction within a five-year period shall be \$210.00 or \$200.00 if paid by
1145 mail. The reinstatement fee for a second such conviction within a five-year period shall
1146 be \$310.00 or \$300.00 if paid by mail. The reinstatement fee for a third or subsequent
1147 such conviction within a five-year period shall be \$410.00 or \$400.00 if paid by mail."

1148 **PART V**

1149 **REORGANIZATION WITHIN THE BOARD**

1150 **AND DEPARTMENT OF COMMUNITY SUPERVISION**

1151 **SECTION 5-1.**

1152 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
1153 by revising subsections (a), (b), and (j) of Code Section 42-3-2, relating to the creation of the
1154 Board of Community Supervision, as follows:

1155 "(a) There is created the Board of Community Supervision which shall establish the
1156 general policy to be followed by the Department of Community Supervision ~~and the~~

~~Governor's Office of Transition, Support, and Reentry.~~ The powers, functions, and duties of the Board of Corrections as they exist on June 30, 2015, with regard to the probation division of the Department of Corrections and supervision of probationers unless otherwise provided in this chapter are transferred to the Board of Community Supervision effective July 1, 2015. The powers, functions, and duties of the State Board of Pardons and Paroles as they exist on June 30, 2015, with regard to the supervision of parolees, unless otherwise provided in this chapter are transferred to the Board of Community Supervision effective July 1, 2015. The powers, functions, and duties of the Board of Juvenile Justice and the Department of Juvenile Justice as they exist on June 30, 2016, with regard to the probation supervision of children and reentry services for children who have been released from restrictive custody and who were adjudicated for a Class A designated felony act or Class B designated felony act, as such terms are defined in Code Section 15-11-2, are transferred to the Board of Community Supervision effective July 1, 2016, except as otherwise provided by the rules and regulations of the Board of Juvenile Justice governing such supervision. The powers, functions, and duties of the County and Municipal Probation Advisory Council as they exist on June 30, 2015, are transferred to the Board of Community Supervision effective July 1, 2015. The powers, functions, and duties of the Governor's Office of Transition, Support, and Reentry as they exist on June 30, 2016, with regard to reentry services are transferred to the board and DCS effective July 1, 2016. The powers, functions, and duties of the board that were transferred from the former County and Municipal Probation Advisory Council as it existed on June 30, 2015, to the board are transferred to DCS effective July 1, 2016; provided, however, that the power to set policy and promulgate rules and regulations for DCS shall be retained by the board.

(b) The board shall consist of ~~nine~~ 11 members. The commissioner of corrections, commissioner of juvenile justice, chairperson and vice chairperson of the State Board of Pardons and Paroles, director of the Division of Family and Children Services of the Department of Human Services, and commissioner of behavioral health and developmental disabilities shall be members of the board and shall serve on the board so long as they remain in their appointed positions. The Governor shall appoint:

(1) A sheriff who shall serve an initial term ending June 30, 2019, each subsequent term being four years;

(2) A mayor or city manager who shall serve an initial term ending June 30, 2018, each subsequent term being four years; ~~and~~

(3) A county commissioner or county manager who shall serve an initial term ending June 30, 2017, each subsequent term being four years;

(4) An individual who owns or is employed by a private corporation, private enterprise, private agency, or other private entity that is providing probation supervision services

pursuant to Article 6 of Chapter 8 of this title who shall serve an initial term ending June 30, 2019, each subsequent term being four years; and

(5) An individual who is employed by a governing authority of a county, municipality, or consolidated government that is providing probation supervision services pursuant to Article 6 of Chapter 8 of this title who shall serve an initial term ending June 30, 2018, each subsequent term being four years."

"(j) The board shall perform duties required of it by law and shall, in addition thereto, be responsible for promulgation of all rules and regulations not in conflict with this chapter that may be necessary and appropriate to the administration of DCS ~~and the Governor's Office of Transition, Support, and Reentry~~, to the accomplishment of the purposes of this chapter and Chapters 8 and 9 of this title, and to the performance of the duties and functions of DCS ~~and the Governor's Office of Transition, Support, and Reentry~~ as set forth in this chapter and Chapters 8 and 9 of this title."

SECTION 5-2.

Said title is further amended by revising subsection (a) of Code Section 42-3-3, relating to the creation of the Department of Community Supervision, as follows:

"(a) There is created the Department of Community Supervision. DCS shall be the agency primarily responsible for:

- (1) Supervision of all defendants who receive a felony sentence of straight probation;
- (2) Supervision of all defendants who receive a split sentence;
- (3) Supervision of all defendants placed on parole or other conditional release from imprisonment by the State Board of Pardons and Paroles;
- (4) Supervision of juvenile offenders ~~when such offender had been placed in~~ released from restrictive custody due to an adjudication for a Class A designated felony act or Class B designated felony act, as such terms are defined in Code Section 15-11-2, ~~and is released from such custody~~ except as otherwise provided by the rules and regulations of the Board of Juvenile Justice governing such supervision;
- (5) Administration of laws, rules, and regulations relating to probation and parole supervision, as provided for by law;
- (6) Enforcement of laws, rules, and regulations relating to probation and parole supervision, as provided for by law; ~~and~~
- (7) Administration of laws as provided in this chapter and Chapters 8 and 9 of this title;
- (8) Regulating entities and individuals that provide probation supervision services pursuant to Article 6 of Chapter 8 of this title;
- (9) Reviewing the uniform professional standards for private probation officers and uniform contract standards for private probation contracts established in Code Section

1230 42-8-107 and submit a report with its recommendations to the board. DCS shall submit
1231 its initial report on or before January 1, 2018, and shall continue such reviews every two
1232 years thereafter. Such report shall provide information which will allow the board to
1233 review the effectiveness of the uniform professional standards and uniform contract
1234 standards and, if necessary, to revise such standards;
1235 (10) Producing an annual summary report; and
1236 (11) Administering laws, rules, and regulations relating to misdemeanor probation
1237 supervision pursuant to Article 6 of Chapter 8 of this title."

1238 **SECTION 5-3.**

1239 Said title is further amended by revising subsection (a) of Code Section 42-3-5, relating to
1240 the administrative functions of the Department of Community Supervision, as follows:
1241 "(a) The commissioner, with the approval of the board, may establish units within DCS as
1242 he or she deems proper for its administration and shall designate persons to be assistant
1243 commissioners of each unit and to exercise authority as he or she may delegate to them in
1244 writing. The commissioner shall establish an offender transition and reentry unit within
1245 DCS to coordinate successful offender reentry in this state, reduce recidivism, enhance
1246 public safety through collaboration among stakeholders, and assist in ensuring the
1247 appropriate and responsible use of cost savings realized by justice reforms through
1248 reinvestment in evidence based, community centered services. The commissioner shall
1249 establish a misdemeanor probation unit within DCS to coordinate and oversee services
1250 provided under Article 6 of Chapter 8 of this title. The commissioner shall establish a
1251 victim services unit within DCS to coordinate:
1252 (1) Payment of court ordered restitution; and
1253 (2) Victim services, including, but not limited to, payments available to victims as
1254 provided by law and assisting victims with support services."

1255 **SECTION 5-4.**

1256 Said title is further amended by revising subsection (e) of Code Section 42-3-6, relating to
1257 rules and regulations, as follows:
1258 "(e) The following rules and regulations shall remain in full force and effect as rules and
1259 regulations of DCS until amended, repealed, or superseded by rules or regulations adopted
1260 by the board:
1261 (1) All rules and regulations previously adopted by the Advisory Council for Probation
1262 which relate to functions transferred under this chapter from the state-wide probation
1263 system to DCS;

1264 (2) All rules and regulations previously adopted by the Department of Corrections or the
1265 Board of Corrections which relate to functions transferred under this chapter from the
1266 Department of Corrections to DCS;
1267 (3) All rules and regulations previously adopted by the State Board of Pardons and
1268 Paroles which relate to functions transferred under this chapter from the State Board of
1269 Pardons and Paroles to DCS;
1270 (4) All rules and regulations previously adopted by the Department of Juvenile Justice
1271 or the Board of Juvenile Justice which relate to functions transferred under this chapter
1272 from the Department of Juvenile Justice to DCS; ~~and~~
1273 (5) All rules and regulations previously adopted by the County and Municipal Probation
1274 Advisory Council which relate to functions transferred under this chapter from the
1275 County and Municipal Probation Advisory Council to DCS; and
1276 (6) All rules and regulations previously adopted by the Governor's Office of Transition,
1277 Support, and Reentry which relate to functions transferred under this chapter from the
1278 Governor's Office of Transition, Support, and Reentry to DCS."

1279 **SECTION 5-5.**

1280 Said title is further amended by revising subsection (a) of Code Section 42-3-7, relating to
1281 transfer of prior appropriations, personnel, equipment, and facilities, as follows:
1282 "(a) Appropriations to the Department of Corrections, the Department of Juvenile Justice,
1283 the County and Municipal Probation Advisory Council, ~~and~~ the State Board of Pardons and
1284 Paroles, and the Governor's Office of Transition, Support, and Reentry for functions
1285 transferred to DCS pursuant to this chapter shall be transferred to DCS as provided for in
1286 Code Section 45-12-90. Personnel, equipment, and facilities previously employed by the
1287 Department of Corrections, the Department of Juvenile Justice, the County and Municipal
1288 Probation Advisory Council, ~~and~~ the State Board of Pardons and Paroles, and the
1289 Governor's Office of Transition, Support, and Reentry for functions transferred to DCS
1290 pursuant to this chapter shall likewise be transferred to DCS. Any disagreement as to any
1291 of such transfers shall be resolved by the Governor. Any individual who is employed by
1292 the Department of Corrections as a probation officer or probation supervisor or by the State
1293 Board of Pardons and Paroles as a parole officer on or before July 1, 2016, and who is
1294 required by the terms of his or her employment to comply with the requirements of Chapter
1295 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act,' may remain in the
1296 employment of the employing agency but shall be transferred for administrative purposes
1297 only to DCS on July 1, 2015."

SECTION 5-6.

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

"42-3-10.

(a) In order to appeal a sanction imposed by the board, a person shall remit a request for a hearing, in writing by certified mail or statutory overnight delivery, return receipt requested, to the board within 30 days from the date of personal notice or receipt of the notice of the sanction; otherwise, the right to such hearing shall be deemed waived. The board shall hold a hearing as provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' If the sanction is sustained, the person who received the sanction shall have a right to file for a judicial review of the final decision, as provided for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; while such appeal is pending, the order of the board shall not be stayed. A petition for judicial review shall name the board as defendant, shall be served by certified mail or statutory overnight delivery, return receipt requested, and shall be filed in the superior court of the county where the offices of the board are located.

(b) Actions at law and in equity against the board or any of its members predicated upon omissions or acts done in a member's official capacity or under color thereof shall be brought in the superior court of the county where the offices of the board are located; provided, however, that nothing in this Code section shall be construed as waiving the immunity of the state to be sued without its consent."

SECTION 5-7.

Said title is further amended by repealing in its entirety Article 2 of Chapter 3, relating to successful transition and reentry of offender, and designating said article as reserved.

PART VI**FIRST OFFENDER TREATMENT,****RECORD RESTRICTION, AND CROSS-REFERENCES****PART VIA****SECTION 6A-1.**

Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to probation, is amended by revising Article 3, relating to probation of first offenders, as follows:

"ARTICLE 3

42-8-60.

(a) ~~When a defendant Upon a verdict or plea of guilty or a plea of nolo contendere, but before an adjudication of guilt, in the case of a defendant who has not been previously convicted of a felony, the court may, upon a guilty verdict or plea of guilty or nolo contendere and before an adjudication of guilt, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and:~~

(1) ~~Place~~ ~~Defer further proceeding and~~ place the defendant on probation as provided by law; or

(2) Sentence the defendant to a term of confinement as provided by law.

~~(b) Upon violation by the defendant of the terms of probation, upon a conviction for another crime during the period of probation, or upon the court determining that the defendant is or was not eligible for sentencing under this article, the court may enter an adjudication of guilt and proceed as otherwise provided by law. No person may avail himself or herself of this article on more than one occasion.~~

~~(c)(b)~~ The court shall not sentence a defendant under the provisions of this article and, if sentenced under the provisions of this article, shall not discharge the defendant upon completion of the sentence unless the court has reviewed the defendant's criminal record as such is on file with the Georgia Crime Information Center.

(c) When a court imposes a sentence pursuant to this article, it:

(1) Shall state in its sentencing order the prospective effective date of the defendant being exonerated of guilt and discharged as a matter of law, assuming the defendant successfully complies with its sentencing order, provided that such date may not have taken into account the awarding of credit for time served in custody; and

(2) May limit access to certain information as provided in subsection (b) of Code Section 42-8-62.1.

(d) The court may enter an adjudication of guilt and proceed to sentence the defendant as otherwise provided by law when the:

(1) Defendant violates the terms of his or her first offender probation;

(2) Defendant is convicted for another crime during the period of his or her first offender sentence; or

(3) Court determines that the defendant is or was not eligible for first offender sentencing under this article.

(e) A defendant sentenced pursuant to this article shall be exonerated of guilt and shall stand discharged as a matter of law as soon as the defendant:

(1) Completes the terms of his or her probation, which shall include the expiration of the sentence by virtue of the time frame of the sentence passing, provided that such sentence has not otherwise been tolled or suspended;

(2) Is released by the court under Code Section 42-8-37, 42-8-103, or 42-8-103.1 prior to the termination of the period of his or her probation; or

(3) Is released from confinement and parole, provided that the defendant is not serving a split sentence.

(f)(1) If the defendant is serving a first offender probated sentence, under active probation supervision or without supervision, within 30 days of such defendant completing active probation supervision, it shall be the duty of the Department of Community Supervision to notify, in writing, the clerk of court for the jurisdiction of the court which imposed the first offender sentence of such completion.

(2) If the defendant is serving a first offender probated sentence, under active probation supervision or without supervision, within 30 days of such defendant completing the term of probation or being released by the court prior to the termination of the period of probation, it shall be the duty of the Department of Community Supervision or entity or governing authority that is providing probation supervision services pursuant to Article 6 of this chapter, as applicable, to notify, in writing, the clerk of court for the jurisdiction of the court which imposed the first offender sentence of such completion or release.

(3) If the defendant is serving a first offender probated sentence pursuant to Article 6 of this chapter, under active probation supervision or without supervision, within 30 days of such defendant completing the term of probation or being released by the court prior to the termination of the period of probation, it shall be the duty of the entity or governing authority that is providing probation supervision services pursuant to Article 6 of this chapter to notify, in writing, the clerk of court for the jurisdiction of the court which imposed the first offender sentence of such completion or release.

(4) If the defendant is not serving a first offender split sentence but is under parole supervision, within 30 days of such defendant completing the term of parole, it shall be the duty of the Department of Community Supervision to notify, in writing, the clerk of court for the jurisdiction of the court which imposed the first offender sentence of such completion.

(5) If the defendant was sentenced only to imprisonment as a first offender and not granted parole, within 30 days of such defendant being released from confinement, it shall be the duty of the Department of Corrections to notify, in writing, the clerk of court for the jurisdiction of the court which imposed the first offender sentence of such release.

(g) If the Department of Community Supervision fails to notify the clerk of court as provided in paragraph (2) or (4) of subsection (f) of this Code section, the entity or

governing authority that is providing probation supervision services pursuant to Article 6 of this chapter fails to notify the clerk of court as provided in paragraph (2) or (3) of subsection (f) of this Code section, the Department of Corrections fails to notify the clerk of court as provided in paragraph (5) of subsection (f) of this Code section, or the state does not seek to have a first offender adjudicated guilty during the term of the first offender's sentence and the first offender's sentence has not otherwise been tolled or suspended, then the defendant shall be exonerated of guilt and shall stand discharged as a matter of law.

(h)(1) When the clerk of court receives for filing an order of exoneration of guilt and discharge or is notified by the Georgia Crime Information Center that a defendant has completed his or her first offender sentence or was discharged pursuant to subsection (g) of this Code section, it shall be the duty of the clerk of court to enter on the criminal docket, accusation or indictment, sentencing order, and any subsequent order modifying the original first offender sentencing order within 30 days of the receipt of such order or notification the following:

'Discharge filed completely exonerates the defendant of any criminal purpose and shall not affect any of his or her civil rights or liberties, except for registration requirements under the state sexual offender registry and except with regard to employment as specified in Code Section 42-8-63.1; and the defendant shall not be considered to have a criminal conviction. O.C.G.A. 42-8-60.'

(2) The entry required by paragraph (1) of this subsection shall be written or stamped in red ink, dated, and signed by the individual making such entry; provided, however, that, if the criminal docket or court records are maintained electronically or using computer printouts, microfilm, or similar means, such entry shall be underscored, boldface, or made in a similar conspicuous manner, shall be dated, and shall include the name of the individual making such entry on the criminal docket, accusation or indictment, sentencing order, and any subsequent order modifying the original first offender sentencing order.

(i) Except for the registration requirements under the state sexual offender registry and except as otherwise provided in Code Section 42-8-63.1, the first offender exoneration of guilt and discharge shall completely exonerate the defendant of any criminal purpose and shall not affect any of his or her civil rights or liberties, and the defendant shall not be considered to have a criminal conviction.

~~(d)~~(j) The court shall not sentence a defendant under the provisions of this article who has been found guilty of or entered a plea of guilty or a plea of nolo contendere for:

(1) A serious violent felony as such term is defined in Code Section 17-10-6.1;

(2) A sexual offense as such term is defined in Code Section 17-10-6.2;

(3) Trafficking of persons for labor or sexual servitude as prohibited by Code Section 16-5-46;

1437 (4) Neglecting disabled adults, elder persons, or residents as prohibited by Code Section
 1438 16-5-101;

1439 (5) Exploitation and intimidation of disabled adults, elder persons, and residents as
 1440 prohibited by Code Section 16-5-102;

1441 ~~(3)~~(6) Sexual exploitation of a minor as ~~defined in~~ prohibited by Code Section
 1442 16-12-100;

1443 ~~(4)~~(7) Electronically furnishing obscene material to a minor as ~~defined in~~ prohibited by
 1444 Code Section 16-12-100.1;

1445 ~~(5)~~(8) Computer pornography and child exploitation, ~~as defined in~~ as prohibited by Code
 1446 Section 16-12-100.2; ~~or~~

1447 ~~(6)~~(9)(A) Any of the following offenses when such offense is committed against a law
 1448 enforcement officer while such officer is engaged in the performance of his or her
 1449 official duties:

1450 (i) Aggravated assault in violation of Code Section 16-5-21;

1451 (ii) Aggravated battery in violation of Code Section 16-5-24; or

1452 (iii) Obstruction of a law enforcement officer in violation of subsection (b) of Code
 1453 Section 16-10-24, if such violation results in serious physical harm or injury to such
 1454 officer.

1455 (B) As used in this paragraph, the term 'law enforcement officer' means:

1456 (i) A 'peace officer' as such term is defined in paragraph (8) of Code Section 35-8-2;

1457 (ii) A law enforcement officer of the United States government;

1458 (iii) An individual ~~A person~~ employed as a campus police officer or school security
 1459 officer;

1460 (iv) A conservation ranger; and

1461 (v) A jail officer employed at a county or municipal jail; or

1462 (10) Driving under the influence as prohibited by Code Section 40-6-391.

1463 (k) When a defendant has not been previously convicted of a felony, the court may, after
 1464 an adjudication of guilt, sentence the defendant pursuant to this article as provided in Code
 1465 Section 42-8-66 or modify a sentence as provided in subsection (f) of Code Section
 1466 17-10-1 so as to allow a sentence pursuant to this article.

1467 (l) A defendant shall not avail himself or herself of this article on more than one occasion.

1468 42-8-61.

1469 When a defendant is represented by an attorney, his or her attorney shall be responsible for
 1470 informing the defendant as to his or her eligibility for sentencing as a first offender. When
 1471 a defendant is pro se, the court shall inquire as to the defendant's interest in entering a plea
 1472 pursuant to the terms of this article. If the defendant expresses a desire to be sentenced as

a first offender, the court shall ask the prosecuting attorney or probation official if the defendant is eligible for sentencing as a first offender. When imposing a sentence, the court shall ensure that, if a defendant is sentenced as a first offender, he or she is made aware of the consequences of entering a first offender plea pursuant to the terms of this article.

42-8-62.

~~(a) Upon fulfillment of the terms of probation, upon release by the court prior to the termination of the period thereof, or upon release from confinement, the defendant shall be discharged without court adjudication of guilt. Except for the registration requirements under the state sexual offender registry and except as otherwise provided in Code Section 42-8-63.1, the discharge shall completely exonerate the defendant of any criminal purpose and shall not affect any of his or her civil rights or liberties; and the defendant shall not be considered to have a criminal conviction. It shall be the duty of the clerk of court to enter on the criminal docket and all other records of the court pertaining thereto the following:~~

~~'Discharge filed completely exonerates the defendant of any criminal purpose and shall not affect any of his or her civil rights or liberties, except for registration requirements under the state sexual offender registry and except with regard to employment providing care for minor children or elderly persons as specified in Code Section 42-8-63.1; and the defendant shall not be considered to have a criminal conviction. O.C.G.A. 42-8-62.'~~

~~Such entry shall be written or stamped in red ink, dated, and signed by the person making such entry or, if the docket or record is maintained using computer print-outs, microfilm, or similar means, such entry shall be underscored, boldface, or made in a similar conspicuous manner and shall be dated and include the name of the person making such entry. The criminal file, docket books, criminal minutes and final record, and all other records of the court relating to the offense of a defendant who has been discharged without court adjudication of guilt pursuant to this subsection shall not be altered as a result of that discharge, except for the entry of discharge thereon required by this subsection, nor shall the contents thereof be expunged or destroyed as a result of that discharge.~~

~~(b) Should a person be~~ When an individual is placed under on probation or in confinement under this article, within 30 days of the filing of such sentence, the clerk of court shall transmit a record of the ~~same shall be forwarded~~ first offender sentence to the Georgia Crime Information Center. ~~Without request of the defendant a record of discharge and exoneration, as provided in this Code section, shall in every case be forwarded to the Georgia Crime Information Center. In every case in which the record of probation or confinement shall have been previously forwarded to the Department of Corrections, to the Georgia Crime Information Center, and to the Identification Division of the Federal Bureau~~

~~of Investigation and a record of a subsequent discharge and exoneration of the defendant has not been forwarded as provided in this Code section, upon request of the defendant or his attorney or representative, the record of the same shall be forwarded by the clerk of court so as to reflect the discharge and exoneration. The clerk shall also transmit any subsequent order or notification regarding a first offender's sentence, including, but not limited to, notification that the defendant completed active probation supervision, was released early from probation supervision, or completed the term of probation, notification that the defendant completed the term of prison or parole, an order revoking a first offender sentence, an order of exoneration of guilt and discharge, and tolling orders, to the Georgia Crime Information Center within 30 days of receiving such order for filing or notification.~~

42-8-62.1.

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

(1) 'Criminal history record information' shall have the same meaning as set forth in Code Section 35-3-30.

(2) 'Prosecuting attorney' shall have the same meaning as set forth in Code Section 35-3-37.

(3) 'Restrict,' 'restricted,' or 'restriction' shall have the same meaning as set forth in Code Section 35-3-37.

(b)(1) At the time of sentencing, the defendant may seek to limit public access to his or her first offender sentencing information, and the court may, in its discretion, order any of the following:

(A) Restrict dissemination of the defendant's first offender records;

(B) The criminal file, docket books, criminal minutes, final record, all other records of the court, and the defendant's criminal history record information in the custody of the clerk of court, including within any index, be sealed and unavailable to the public; and

(C) Law enforcement agencies, jails, or detention centers to restrict the defendant's criminal history record information of arrest, including any fingerprints or photographs taken in conjunction with such arrest.

(2) When considering the defendant's request under this subsection, the court shall weigh the public's interest in the defendant's criminal history record information being publicly available and the harm to the defendant's privacy and issue written findings of fact thereupon.

(3) The court shall specify the date that such prohibited dissemination, sealing, and restrictions will take effect.

(c) An individual who has been exonerated of guilt and discharged pursuant to this article, including those individuals exonerated of guilt and discharged prior to July 1, 2016, may

petition the court that granted such discharge for an order to seal and make unavailable to the public the criminal file, docket books, criminal minutes, final record, all other records of the court, and the defendant's criminal history record information in the custody of the clerk of court, including within any index. Notice of such petition shall be sent to the clerk of court and the prosecuting attorney. A notice sent by registered or certified mail or statutory overnight delivery shall be sufficient notice.

(d) Within 90 days of the filing of a petition pursuant to subsection (c) of this Code section, the court shall order the criminal file, docket books, criminal minutes, final record, all other records of the court, and the defendant's criminal history record information in the custody of the clerk of court, including within any index, to be sealed and made unavailable to the public if the court finds by a preponderance of the evidence that:

(1) An exoneration of guilt and discharge has been granted pursuant to this article; and

(2) The harm otherwise resulting to the privacy of the individual outweighs the public interest in the criminal history record information being publicly available.

(e) Within 60 days of the filing of the court's order under subsection (d) of this Code section, the clerk of court shall cause every document in connection with such individual's case, physical or electronic, in its custody, possession, or control to be sealed.

(f) When a court orders sealing of court records under subsection (d) of this Code section, the court may also order that records maintained by law enforcement agencies, jails, and detention centers be restricted and unavailable to the public. Such entities shall comply with such restriction within 30 days of receiving a copy of such order.

(g)(1) Information sealed or restricted pursuant to this Code section shall always be available for inspection, copying, and use:

(A) As provided in subsection (c) of Code Section 42-8-65;

(B) By the Judicial Qualifications Commission;

(C) By a prosecuting attorney or public defender who submits a sworn affidavit to the clerk of court that attests that such information is relevant to a criminal proceeding;

(D) Pursuant to a court order; and

(E) By an individual who is the subject of sealed court files or restricted criminal history record information upon court order.

(2) The confidentiality of such information shall be maintained insofar as practical.

42-8-63.

Except as ~~otherwise~~ provided in ~~this article~~ Code Section 42-8-63.1, a discharge under this article is not a conviction of a crime under the laws of this state and ~~may~~ shall not be used to disqualify ~~a person~~ an individual in any application for employment or appointment to office in either the public or private sector.

42-8-63.1.

(a) A discharge under this article may be used to disqualify ~~a person~~ an individual for employment if:

~~(1) The offender~~ the individual was discharged under this article ~~on or after~~ between July 1, 2004; ~~and either,~~ and June 30, 2016, and:

~~(2)(1)~~ The employment is with a public school, private school, child welfare agency, or a person or entity that provides day care for minor children or after school care for minor children and the ~~defendant was discharged under this article after prosecution~~ individual who is the subject of the inquiry was prosecuted for the offense of child molestation, sexual battery, enticing a child for indecent purposes, sexual exploitation of a child, pimping, pandering, or incest;

~~(3)(2)~~ The employment is with a long-term care facility as defined in Code Section 31-8-51 or a person or entity that offers day care for elderly persons and the ~~defendant was discharged under this article after prosecution~~ individual who is the subject of the inquiry was prosecuted for the offense of sexual battery, incest, pimping, or pandering; or a violation of Article 8 of Chapter 5 of Title 16; or

~~(4)(3)~~ The request for information is an inquiry about ~~a person~~ an individual who has applied for employment with a facility as defined in Code Section 37-3-1 or 37-4-2 that provides services to ~~persons~~ individuals who are mentally ill as defined in Code Section 37-1-1 or developmentally disabled as defined in Code Section 37-1-1; and the ~~person~~ individual who is the subject of the inquiry ~~to the center~~ was prosecuted for the offense of sexual battery, incest, pimping, or pandering.

(b) A discharge under this article may be used to disqualify an individual for employment if the individual was discharged under this article on or after July 1, 2016, and:

(1) The employment is with a public school, private school, child welfare agency, or a person or entity that provides day care for minor children or after school care for minor children and the individual who is the subject of the inquiry was prosecuted for a violation of Title 16 in Article 5 of Chapter 5, Chapter 6, or Part 2 or 3 of Article 3 of Chapter 12;

(2) The employment is with a long-term care facility as defined in Code Section 31-8-51 or with a person or entity that offers day care for elderly persons and the individual who is the subject of the inquiry was prosecuted for a violation of Title 16 in Article 5 or 8 of Chapter 5; or

(3) The request for information is an inquiry about an individual who has applied for employment with a facility as defined in Code Section 37-3-1 or 37-4-2 that provides services to individuals who are mentally ill as defined in Code Section 37-1-1 or developmentally disabled as defined in Code Section 37-1-1 and the individual who is

1618 the subject of the inquiry was prosecuted for a violation of Title 16 in Article 8 of
1619 Chapter 5 or Chapter 6.

1620 ~~(b)(c)~~ Any discharge under this article may be used to disqualify ~~a person~~ an individual
1621 from acquiring or maintaining a peace officer certification as provided for in Chapter 8 of
1622 ~~Article 35 and also Title 35,~~ may disqualify ~~a person~~ an individual from employment in a
1623 certified position with a law enforcement unit, and may disqualify an individual from
1624 employment with the Georgia Peace Officer Standards and Training Council when ~~where~~
1625 the discharge under this article pertained to a felony offense or a crime involving moral
1626 turpitude.

1627 42-8-64.

1628 A defendant sentenced pursuant to this article shall have the right to appeal in the same
1629 manner and with the same scope and same effect as if a judgment of conviction had been
1630 entered and appealed from.

1631 42-8-65.

1632 (a) If otherwise allowable by law, in ~~any~~ a subsequent prosecution of the defendant for ~~any~~
1633 ~~other~~ another offense, ~~a~~ when a defendant has not been exonerated of guilt and discharged,
1634 the prior finding of guilt may be pleaded and proven as if an adjudication of guilt had been
1635 entered and relief had not been granted pursuant to this article.

1636 (b) The records of the Georgia Crime Information Center ~~shall be modified, without a~~
1637 ~~court order, to show a conviction in lieu of treatment as a first offender under this article~~
1638 ~~whenever the conviction of a person for another crime during the term of probation is~~
1639 ~~reported to the Georgia Crime Information Center. If a report is made showing that such~~
1640 ~~person has been afforded first offender treatment under this article on more than one~~
1641 ~~occasion, the Georgia Crime Information Center may report information on first offender~~
1642 ~~treatments subsequent to the first such first offender treatment as if they were convictions.~~
1643 ~~Such records may be disseminated by the Georgia Crime Information Center in the same~~
1644 ~~manner and subject to the same restrictions as any other records of convictions~~ showing
1645 treatment as a first offender shall be modified only when a court of competent jurisdiction
1646 enters:

1647 (1) An adjudication of guilt for the offense for which the offender has been sentenced as
1648 a first offender;

1649 (2) An order modifying the sentence originally imposed; or

1650 (3) An order correcting an exoneration of guilt and discharge entered pursuant to
1651 subsection (g) of Code Section 42-8-60.

~~(c)(1) Any individual~~ Notwithstanding any other provision of this article, any person who is sentenced to a term of confinement pursuant to paragraph (2) of subsection (a) or (k) of Code Section 42-8-60 shall not be deemed to have been convicted of the offense during such term of confinement for all purposes except that records thereof shall be treated as any other records of first offenders under this article and except that such presumption shall not continue after completion of such person's confinement sentence. Upon completion of the confinement sentence, such person shall be treated in the same manner and the procedures to be followed by the court shall be the same as in the case of a person placed on probation under this article during such sentence, and records thereof shall only be disseminated by the Georgia Crime Information Center:

(A) To criminal justice agencies, as such term is defined in Code Section 35-3-30;

(B) As authorized by subsection (c) of Code Section 35-3-37; and

(C) As authorized by subparagraph (a)(1)(B) of Code Sections 35-3-34 and 35-3-35.

(2) If a court of competent jurisdiction adjudicates the defendant guilty while such defendant is serving a first offender sentence, such records may be disseminated by the Georgia Crime Information Center as provided in Code Sections 35-3-34 and 35-3-35.

42-8-66.

(a) An individual who qualified for sentencing pursuant to this article but who was not informed of his or her eligibility for first offender treatment may, with the consent of the prosecuting attorney, petition the superior court in the county in which he or she was convicted for ~~discharge and exoneration of guilt and discharge~~ pursuant to this article.

(b) The court shall hold a hearing on the petition if requested by the petitioner or prosecuting attorney or desired by the court.

(c) In considering a petition pursuant to this Code section, the court may consider any:

(1) Evidence introduced by the petitioner;

(2) Evidence introduced by the prosecuting attorney; and

(3) Other relevant evidence.

(d) The court may issue an order retroactively granting first offender treatment and discharge the defendant pursuant to this article if the court finds by a preponderance of the evidence that the defendant was eligible for sentencing under the terms of this article at the time he or she was originally sentenced and the ends of justice and the welfare of society are served by granting such petition.

(e) The court shall send a copy of any order issued pursuant to this Code section to the petitioner, the prosecuting attorney, ~~and the Georgia Bureau of Investigation~~ Crime Information Center, and the Department of Driver Services. The Georgia ~~Bureau of~~

1687 ~~Investigation~~ Crime Information Center and the Department of Driver Services shall
1688 modify ~~its~~ their records accordingly.
1689 (f) This Code section shall not apply to a sentence that may be modified pursuant to
1690 subsection (f) of Code Section 17-10-1."

1691 PART VIB

1692 SECTION 6B-1.

1693 Article 2 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to
1694 commitment hearings, is amended by revising Code Section 17-7-32, relating to the
1695 disposition of commitment form, warrant, and other papers, as follows:

1696 "17-7-32.

1697 (a) The commitment form shall be delivered to the officer in whose charge the accused
1698 person is placed, and the officer shall deliver it with the accused person to the sheriff or the
1699 other person in charge of the jail. A memorandum of the commitment shall be entered on
1700 the warrant by the judicial officer.

1701 (b)(1) The warrant and all other papers shall be forwarded to the clerk of the ~~appropriate~~
1702 court having jurisdiction over the offense for delivery to the prosecuting attorney. After
1703 such delivery, if the prosecuting attorney decides to dismiss the case prior to filing an
1704 accusation or without seeking an indictment, he or she shall file a notice of such fact with
1705 the clerk of the court having jurisdiction over the offense. Such notice shall include the
1706 warrant number, if any, and any other identifying number assigned to the case by the
1707 Georgia Crime Information Center. Within 30 days of receiving such notice, the clerk
1708 of court shall transmit a copy of such notice to the Georgia Crime Information Center.
1709 (2) Nothing in this subsection shall prevent a prosecuting attorney who has probable
1710 cause from seeking charges against an accused within the applicable statute of
1711 limitations."

1712 SECTION 6B-2.

1713 Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the
1714 Georgia Crime Information Center, is amended in subsection (a) of Code Section 35-3-33,
1715 relating to the powers and duties of the center generally, by revising paragraph (10), by
1716 deleting "and" at the end of paragraph (15), by replacing the period with "; and" at the end
1717 of paragraph (16), and by adding a new paragraph (17) to read as follows:

1718 "(10) Make available, upon request, to all local and state criminal justice agencies, all
1719 federal criminal justice agencies, and criminal justice agencies in other states any
1720 information in the files of the center which will aid these agencies in the performance of

their official duties, including but not limited to final disposition of offenses; sentencing information and conditions; orders modifying an earlier disposition; orders relating to probation, including modification, tolling, completion of active probation supervision, termination, revocation, or completion of orders entered pursuant to Article 3 of Chapter 8 of Title 42; and orders relating to parole, including modification, tolling, termination, and revocation. For this purpose the center shall operate on a 24 hour basis, seven days a week. Such information when authorized by the council may also be made available to any other agency of the state or political subdivision of the state and to any other federal agency upon assurance by the agency concerned that the information is to be used for official purposes only in the prevention or detection of crime or the apprehension of criminal offenders;"

"(17) Notify the appropriate clerk of court that a defendant has completed his or her first offender sentence or was exonerated of guilt and discharged pursuant to subsection (g) of Code Section 42-8-60 within five days of such completion or exoneration."

SECTION 6B-3.

Said article is further amended by revising subparagraphs (a)(1)(B) and (a)(1)(D) of Code Section 35-3-34, relating to disclosure and dissemination of criminal records to private persons and businesses, as follows:

"(B)(i) The center ~~may~~ shall not provide records of arrests, charges, and or sentences for crimes relating to first offenders when an individual has been sentenced pursuant to Article 3 of Chapter 8 of Title 42 in cases where offenders have and has been exonerated and discharged without court adjudications adjudication of guilt as a matter of law or pursuant to a court order, including records relating to such defendant's bench warrants, failure to appear, and probation for such offense, except as specifically authorized by Code Section 35-3-34.1 or other law 42-8-63.1. The center shall not provide records of arrests, charges, or sentences when an individual has been sentenced as provided in Code Section 15-1-20, including records relating to such defendant's bench warrants, failure to appear, and probation for such offense, except as specifically authorized by Code Section 42-8-63.1.

(ii) During the period of time after a defendant, who has been sentenced pursuant to Article 3 of Chapter 8 of Title 42 but has not been exonerated and discharged without court adjudication of guilt as a matter of law or pursuant to a court order, has completed active probation supervision through the remainder of such sentence, the center shall not provide records of arrests, charges, or sentences except as specifically authorized by Code Section 42-8-63.1.

(iii) The center may provide records of arrests, charges, or sentences when an individual has been sentenced pursuant to Article 3 of Chapter 8 of Title 42 but has not been exonerated and discharged without court adjudication of guilt as a matter of law or pursuant to a court order, as specifically authorized by Code Section 42-8-63.1, while a defendant is under active probation supervision for such offense, or as provided in a court order;"

"(D) The center shall not provide records of arrests, charges, or dispositions when access has been restricted pursuant to Code Section 15-1-20, 35-3-37, or 42-8-62.1; or"

SECTION 6B-4.

Said article is further amended by revising Code Section 35-3-34.1, relating to circumstances when exonerated first offender's criminal record may be disclosed, as follows:

"35-3-34.1.

~~(a) Where an offender~~ When a defendant has been exonerated and discharged without court adjudication of guilt pursuant to Article 3 of Chapter 8 of Title 42, the center is authorized to provide the first offender's record of arrests, charges, or sentences ~~if the offender was exonerated and discharged without a court adjudication of guilt on or after July 1, 2004, and either:~~ to the employers and entities and under the conditions set forth in Code Section 42-8-63.1.

~~(1) The request for information is an inquiry about a person who has applied for employment with a public school, private school, child welfare agency, or a person or entity that provides day care for minor children or after school care for minor children and the person who is the subject of the inquiry to the center was prosecuted for the offense of child molestation, sexual battery, enticing a child for indecent purposes, sexual exploitation of a child, pimping, pandering, or incest;~~

~~(2) The request for information is an inquiry about a person who has applied for employment with a long-term care facility as defined in Code Section 31-8-51 or a person or entity that offers day care for elderly persons and the person who is the subject of the inquiry to the center was prosecuted for the offense of sexual battery, incest, pimping, pandering, or a violation of Article 8 of Chapter 5 of Title 16; or~~

~~(3) The request for information is an inquiry about a person who has applied for employment with a facility as defined in Code Section 37-3-1 or 37-4-2 that provides services to persons who are mentally ill as defined in Code Section 37-1-1 or developmentally disabled as defined in Code Section 37-1-1, and the person who is the subject of the inquiry to the center was prosecuted for the offense of sexual battery, incest, pimping, or pandering.~~

~~(b) First offender records including records of arrests, charges, or sentences may be released to any law enforcement unit and the Georgia Peace Officer Standards and Training Council where the request for information is an inquiry about a person who has applied for employment in a certified position or a person who is an applicant, candidate, or peace officer as defined in Code Section 35-8-2."~~

SECTION 6B-5.

Said article is further amended in Code Section 35-3-35, relating to disclosure and dissemination of criminal records to public agencies and political subdivisions, by revising subparagraphs (a)(1)(B) and (a)(1)(C) and by adding a new subparagraph to paragraph (1) of subsection (a) to read as follows:

~~"(B)(i) The center may~~ shall ~~not provide records of arrests, charges, or sentences for crimes relating to first offenders when an individual has been sentenced pursuant to Article 3 of Chapter 8 of Title 42 in cases where offenders have~~ and has ~~been exonerated and discharged without court adjudications~~ adjudication of guilt as a matter of law or pursuant to a court order, including records relating to such defendant's bench warrants, failure to appear, and probation for such offense, except as specifically authorized by Code Section 35-3-34.1 or other law, and 42-8-63.1. ~~The center shall not provide records of arrests, charges, or sentences when an individual has been sentenced as provided in Code Section 15-1-20, including records relating to such defendant's bench warrants, failure to appear, and probation for such offense, except as specifically authorized by Code Section 42-8-63.1.~~

(ii) During the period of time after a defendant, who has been sentenced pursuant to Article 3 of Chapter 8 of Title 42 but has not been exonerated and discharged without court adjudication of guilt as a matter of law or pursuant to a court order, has completed active probation supervision through the remainder of such sentence, the center shall not provide records of arrests, charges, or sentences except as specifically authorized by Code Section 42-8-63.1.

(iii) The center may provide records of arrests, charges, or sentences when an individual has been sentenced pursuant to Article 3 of Chapter 8 of Title 42 but has not been exonerated and discharged without court adjudication of guilt as a matter of law or pursuant to a court order, as specifically authorized by Code Section 42-8-63.1, while a defendant is under active probation supervision for such offense, or as provided in a court order;

(C) When the identifying information provided is sufficient to identify persons whose records are requested electronically, the center may disseminate electronically criminal history records of in-state felony convictions, pleas, and sentences without:

1827 (i) Fingerprint comparison; or
 1828 (ii) Consent of the person whose records are requested; and
 1829 (D) The center shall not provide records of arrests, charges, or dispositions when
 1830 access has been restricted pursuant to Code Section 15-1-20, 35-3-37, or 42-8-62.1;"

1831 **SECTION 6B-6.**

1832 Said article is further amended by revising subsections (b), (c), and (g) of Code Section
 1833 35-3-36, relating to the duties of state criminal agencies as to submission of fingerprints,
 1834 photographs, or other identifying data to the center, as follows:

1835 "(b) It shall be the duty of all chiefs of police, sheriffs, prosecuting attorneys, courts,
 1836 judges, clerks of court, community supervision officers, county or ~~department~~ Department
 1837 of Juvenile Justice juvenile probation officers, probation officers and private probation
 1838 officers serving pursuant to Article 6 of Chapter 8 of Title 42, wardens; or other persons
 1839 in charge of penal and correctional institutions in this state, the Georgia Superior Court
 1840 Clerks' Cooperative Authority, and the State Board of Pardons and Paroles to furnish the
 1841 center with any other data deemed necessary by the center to carry out its responsibilities
 1842 under this article.

1843 (c) All persons in charge of law enforcement agencies shall obtain or cause to be obtained
 1844 fingerprints in accordance with the fingerprint system of identification established by the
 1845 director of the Federal Bureau of Investigation, full-face and profile photographs if photo
 1846 equipment is available, and other available identifying data of each person arrested or taken
 1847 into custody for an offense of a type designated in paragraph (1) of subsection (a) of Code
 1848 Section 35-3-33, of all persons arrested or taken into custody as fugitives from justice, and
 1849 of all unidentified human corpses in their jurisdictions; but photographs need not be taken
 1850 if it is known that photographs of the type listed taken within the previous year are on file.
 1851 Fingerprints and other identifying data of persons arrested or taken into custody for
 1852 offenses other than those designated may be taken at the discretion of the law enforcement
 1853 agency concerned. Any person arrested or taken into custody and subsequently released
 1854 without charge or cleared of the offense through court proceedings shall have any
 1855 fingerprint record taken in connection therewith returned ~~if required by statute or deleted,~~
 1856 as applicable, if the fingerprint record was taken in error or upon court order, and ~~any~~ such
 1857 dispositions ~~must also~~ shall be reported to the center."

1858 "(g) All persons in charge of law enforcement agencies, ~~all~~ clerks of court or the Georgia
 1859 Superior Court Clerks' Cooperative Authority as applicable, ~~all~~ municipal judges ~~where~~
 1860 ~~they have no clerks~~ when such judges do not have a clerk, ~~all~~ magistrates, ~~and all~~ persons
 1861 in charge of community supervision, juvenile probation, or Article 6 of Chapter 8 of Title
 1862 42 probation offices, and the State Board of Pardons and Paroles shall ~~supply~~ transmit to

1863 the center ~~with~~ the information described in Code Section 35-3-33 within 30 days of the
1864 creation or receipt of such information, except as provided in subsection (d) of this Code
1865 section, on the basis of the forms and instructions to be ~~supplied~~ provided by the center."

1866 **SECTION 6B-7.**

1867 Said article is further amended by revising paragraph (6) of subsection (a), subsection (h),
1868 and paragraph (5) of subsection (j) of Code Section 35-3-37, relating to review of individual's
1869 criminal history record information, as follows:

1870 "(6) 'Restrict,' 'restricted,' or 'restriction' means that the criminal history record
1871 information of an individual relating to a particular charge shall be available only to
1872 judicial officials and criminal justice agencies for law enforcement or criminal
1873 investigative purposes or to criminal justice agencies for purposes of employment in
1874 accordance with procedures established by the center and shall not be disclosed or
1875 otherwise made available to any private persons or businesses pursuant to Code Section
1876 35-3-34 or to governmental agencies or licensing and regulating agencies pursuant to
1877 Code Section 35-3-35."

1878 "(h) Access to an individual's criminal history record information, including any
1879 fingerprints or photographs of the individual taken in conjunction with the arrest, shall be
1880 restricted by the center for the following types of dispositions:

1881 (1) Prior to indictment, accusation, or other charging instrument:

1882 (A) The case was never referred for further prosecution to the proper prosecuting
1883 attorney by the arresting law enforcement agency and:

1884 (i) The offense against such individual is closed by the arresting law enforcement
1885 agency. It shall be the duty of the head of the arresting law enforcement agency to
1886 notify the center whenever a record is to be restricted pursuant to this division within
1887 30 days of such decision. A copy of the notice shall be sent to the accused and the
1888 accused's attorney, if any, by mailing the same by first-class mail within seven days
1889 of notifying the center; or

1890 (ii) The center does not receive notice from the arresting law enforcement agency that
1891 the offense has been referred to the prosecuting attorney or transferred to another law
1892 enforcement or prosecutorial agency of this state, any other state or a foreign nation,
1893 or any political subdivision thereof for prosecution and the following period of time
1894 has elapsed from the date of the arrest of such individual:

1895 (I) If the offense is a misdemeanor or a misdemeanor of a high and aggravated
1896 nature, two years;

(II) If the offense is a felony, other than a serious violent felony or a felony sexual offense specified in Code Section 17-3-2.1 involving a victim under 16 years of age, four years; or

(III) If the offense is a serious violent felony or a felony sexual offense specified in Code Section 17-3-2.1 involving a victim under 16 years of age, seven years.

If the center receives notice of the filing of an indictment subsequent to the restriction of a record pursuant to this division, the center shall make such record available in accordance with Code Section 35-3-34 or 35-3-35. If the center does not receive notice of a charging instrument within 30 days of the applicable time periods set forth in this division, such record shall be restricted by the center for noncriminal justice purposes and shall be considered sealed.

(B) The case was referred to the prosecuting attorney but was later dismissed; ~~or~~

(C) The grand jury returned two no bills; ~~and~~ or

(D) The grand jury returned one no bill and the applicable time period set forth in division (ii) of subparagraph (A) of this paragraph has expired; and

(2) After indictment or accusation:

(A) Except as provided in subsection (i) of this Code section, all charges were dismissed or nolle prossed;

~~(B) The individual pleaded guilty to or was found guilty of possession of a narcotic drug, marijuana, or stimulant, depressant, or hallucinogenic drug and was sentenced in accordance with the provisions of subsection (a) or (c) of Code Section 16-13-2, and the individual successfully completed the terms and conditions of his or her probation;~~

(C) The individual pleaded guilty to or was found guilty of a violation of paragraph (2) or (3) of subsection (a) of Code Section 3-3-23 and was sentenced in accordance with the provisions of subsection (c) of Code Section 3-3-23.1, and the individual successfully completed the terms and conditions of his or her probation;

~~(D)~~ (D) The individual successfully completed a drug court treatment program, mental health treatment program, or veterans treatment program, the individual's case has been dismissed or nolle prossed, and he or she has not been arrested ~~for at least five years during such program,~~ excluding any arrest for a nonserious traffic offense; or

~~(E)~~ (E) The individual was acquitted of all of the charges by a judge or jury unless, within ten days of the verdict, the prosecuting attorney demonstrates to the trial court through clear and convincing evidence that the harm otherwise resulting to the individual is clearly outweighed by the public interest in the criminal history record information being publicly available because either:

- (i) The prosecuting attorney was barred from introducing material evidence against the individual on legal grounds, including, without limitation, the granting of a motion to suppress or motion in limine; or
- (ii) The individual has been formally charged with the same or similar offense within the previous five years."

~~"(5) Any party may file an appeal of an order entered pursuant to this subsection as provided in Code Section 5-6-34. When an individual was arrested on a fugitive from justice warrant as provided in Code Section 17-13-4, such individual may petition the superior court in the county where the arrest occurred to restrict access to criminal history record information for such warrant. Such court shall maintain jurisdiction over the case for this limited purpose and duration. Such petition shall be served on the arresting law enforcement agency and the prosecuting attorney. If a hearing is requested, such hearing shall be held within 90 days of the filing of the petition. The court shall hear evidence and shall grant an order restricting such criminal history record information if the court determines that circumstances warrant restriction and that the harm otherwise resulting to the individual clearly outweighs the public interest in the criminal history record information being publicly available."~~

SECTION 6B-8.

Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to probation, is amended by revising paragraph (3) of subsection (a) of Code Section 42-8-36, relating to the duty of a probationer to inform his or her probation officer of residence and whereabouts and tolling, as follows:

"(3) The effective date of the tolling of the sentence shall be the date the court enters a tolling order and shall continue until the probationer shall personally report to the officer, is taken into custody in this state, or is otherwise available to the court. The clerk of court shall transmit a copy of a tolling order to the Georgia Crime Information Center within 30 days of the filing of such order."

SECTION 6B-9.

Said chapter is further amended by revising subsection (d) of Code Section 42-8-105, relating to a probationer's obligation to keep his or her probation officer informed of certain information, as follows:

"(d) The effective date of the tolling of the sentence shall be the date the court enters a tolling order and shall continue until the probationer personally reports to the probation officer or private probation officer, as the case may be, is taken into custody in this state, or is otherwise available to the court, whichever event first occurs. The clerk of court, or

1967 judge of any court when there is no clerk of court, shall transmit a copy of a tolling order
1968 to the Georgia Crime Information Center within 30 days of the filing of such order."

1969 PART VIC
1970 SECTION 6C-1.

1971 Code Section 10-1-393.5 of the Official Code of Georgia Annotated, relating to prohibited
1972 telemarketing, Internet activities, and home repair, is amended by revising division
1973 (b.1)(1)(B)(i) as follows:

1974 "(i) Access to his or her case or charges was restricted pursuant to Code Section
1975 15-1-20, 35-3-37, or 42-8-62.1;"

1976 SECTION 6C-2.

1977 Code Section 16-11-131 of the Official Code of Georgia Annotated, relating to possession
1978 of firearms by convicted felons and first offender probationers, is amended by revising
1979 subsection (f) as follows:

1980 "(f) Any person placed on probation as a first offender pursuant to Article 3 of Chapter 8
1981 of Title 42 and subsequently discharged without court adjudication of guilt as a matter of
1982 law pursuant to Code Section ~~42-8-62~~ 42-8-60 shall, upon such discharge, be relieved from
1983 the disabilities imposed by this Code section."

1984 PART VII
1985 MISDEMEANOR PROBATION SERVICES
1986 SECTION 7-1.

1987 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
1988 by revising Code Section 42-8-100, relating to definitions for county and municipal
1989 probation, as follows:

1990 "42-8-100.

1991 As used in this article, the term:

1992 (1) 'Board' means the Board of Community Supervision.

1993 (2) 'DCS' means the Department of Community Supervision.

1994 ~~(2)~~(3) 'Private probation officer' means an individual employed by a private corporation,
1995 private enterprise, private agency, or other private entity to supervise defendants placed
1996 on probation by a court for committing an ordinance violation or misdemeanor.

1997 (3)(4) 'Probation officer' means an individual employed by a governing authority of a
 1998 county, municipality, or consolidated government to supervise defendants placed on
 1999 probation by a court for committing an ordinance violation or misdemeanor."

2000 **SECTION 7-2**

2001 Said title is further amended by revising Code Section 42-8-101, relating to agreements for
 2002 probation services, as follows:

2003 "42-8-101.

2004 (a)(1) ~~The~~ Upon the request of the chief judge of any court within a county and with the
 2005 express written consent of such judge, ~~with the approval of the~~ governing authority of
 2006 such county; shall be authorized to enter into written contracts with corporations,
 2007 enterprises, or agencies to provide probation supervision, counseling, collection services
 2008 for all moneys to be paid by a defendant according to the terms of the sentence imposed
 2009 on the defendant as well as any moneys which by operation of law are to be paid by the
 2010 defendant in consequence of the conviction, and other probation services for persons
 2011 convicted in such court and placed on probation in such county. In no case shall a private
 2012 probation corporation or enterprise be charged with the responsibility for supervising a
 2013 felony sentence. The final contract negotiated by the ~~chief judge~~ governing authority of
 2014 the county with the private probation entity shall be attached to the approval by the
 2015 governing authority of the county to privatize probation services as an exhibit thereto.
 2016 The termination of a contract for probation services as provided for in this subsection
 2017 ~~shall~~ may be initiated by the chief judge of the court which ~~entered into the~~ is subject to
 2018 such contract; and shall be subject to approval by the governing authority of the county
 2019 which entered into the contract and in accordance with the agreed upon, written
 2020 provisions of such contract.

2021 (2) ~~The~~ Upon the request of the chief judge of any court within a county and with the
 2022 express written consent of such judge, ~~with the approval of the~~ governing authority of
 2023 such county, ~~is~~ shall be authorized to establish a county probation system to provide
 2024 probation supervision, counseling, collection services for all moneys to be paid by a
 2025 defendant according to the terms of the sentence imposed on the defendant as well as any
 2026 moneys which by operation of law are to be paid by the defendant in consequence of the
 2027 conviction, and other probation services for persons convicted in such court and placed
 2028 on probation in such county.

2029 (b)(1) ~~The~~ Upon the request of the judge of the municipal court of any municipality or
 2030 consolidated government of a municipality and county of this state and with the express
 2031 written consent of such judge, ~~with the approval of the~~ governing authority of such
 2032 municipality or consolidated government, ~~is~~ shall be authorized to enter into written

contracts with private corporations, enterprises, or agencies to provide probation supervision, counseling, collection services for all moneys to be paid by a defendant according to the terms of the sentence imposed on the defendant as well as any moneys which by operation of law are to be paid by the defendant in consequence of the conviction, and other probation services for persons convicted in such court and placed on probation. The final contract negotiated by the ~~judge~~ governing authority of the municipality or consolidated government with the private probation entity shall be attached to the approval by the governing authority of the municipality or consolidated government to privatize probation services as an exhibit thereto. The termination of a contract for probation services as provided for in this subsection ~~shall~~ may be initiated by the chief judge of the court which ~~entered into the~~ is subject to such contract and shall be subject to approval by the governing authority of the municipality or consolidated government which entered into the contract and in accordance with the agreed upon, written provisions of such contract.

(2) ~~The~~ Upon the request of the judge of the municipal court of any municipality or consolidated government of a municipality and county of this state and with the express written consent of such judge, ~~with the approval of the~~ governing authority of such municipality or consolidated government, ~~is~~ shall be authorized to establish a probation system to provide probation supervision, counseling, collection services for all moneys to be paid by a defendant according to the terms of the sentence imposed on the defendant as well as any moneys which by operation of law are to be paid by the defendant in consequence of the conviction, and other probation services for persons convicted in such court and placed on probation."

SECTION 7-3.

Said title is further amended by revising subsection (f) of Code Section 42-8-102, relating to probation, supervision, and revocation, as follows:

"(f)(1) The sentencing judge shall not lose jurisdiction over any person placed on probation during the term of his or her probated sentence. As further set forth in this subsection, the judge may revoke any or all of the probated sentence, rescind any or all of the sentence, or, in any manner deemed advisable by the judge, modify or change the probated sentence, including tolling the sentence as provided in this article, at any time during the period of time originally prescribed for the probated sentence to run.

(2)(A) When the sole basis for a probation revocation is for failure to pay fines, statutory surcharges, or probation supervision fees, the probationer shall be scheduled to appear on the court's next available court calendar for a hearing on such issue. No prehearing arrest warrant shall be issued under such circumstances. Absent a waiver,

the court shall not revoke a probationary sentence for failure to pay fines, statutory surcharges, or probation supervision fees without holding a hearing, inquiring into the reasons for the probationer's failure to pay, and, if a probationary sentence is revoked, making an express written determination that the probationer has not made sufficient bona fide efforts to pay and the probationer's failure to pay was willful or that adequate alternative types of punishment do not exist. Should the probationer fail to appear at such hearing, the court may, in its discretion, revoke the probated sentence.

~~(3)(B)~~ A person otherwise found eligible to have his or her probation modified or terminated pursuant to paragraph (1) of this subsection shall not be deemed ineligible for modification or termination of probation solely due to his or her failure to pay fines, statutory surcharges, or probation supervision fees.

(3)(A) When the sole basis for a probation revocation is for failure to report as directed by his or her probation officer or private probation officer, as the case may be, such officer shall prepare an affidavit for the court, averring, at a minimum, that:

(i) The probationer has failed to report to his or her probation officer or private probation officer, as the case may be, on at least two occasions;

(ii) The officer has attempted to contact the probationer at least two times by telephone or e-mail at the probationer's last known telephone number or e-mail address, which information shall be listed in the affidavit;

(iii) The officer has checked the local jail rosters and determined that the probationer is not incarcerated;

(iv) The officer has sent a letter by first-class mail to the probationer's last known address, which shall be listed in the affidavit, advising the probationer that the officer will seek to have the probationer arrested and have his or her probation revoked if the probationer does not report to such officer in person within ten days of the date on which the letter was mailed; and

(v) The probationer has failed to report to the probation officer or private probation officer, as the case may be, as directed in the letter set forth in division (iv) of this subparagraph and ten days have passed since the date on which the letter was mailed.

(B) In the event the probationer reports to his or her probation officer or private probation officer, as the case may be, within the period prescribed in division (iv) of subparagraph (A) of this paragraph, the probationer may be scheduled to appear on the next available court calendar for a hearing to consider whether the probation sentence should be revoked in whole or in part.

(C) A probation officer or private probation officer, as the case may be, shall submit the affidavit required by subparagraph (A) of this paragraph together with his or her

2105 request for an arrest warrant, and the court may, in its discretion, issue a warrant for the
2106 arrest of the probationer.

2107 (4) At any revocation hearing, upon proof that the probationer has violated probation:

2108 (A) For failure to report to probation or failure to pay fines, statutory surcharges, or
2109 probation supervision fees, the court shall consider the use of alternatives to
2110 confinement, including community service, modification of the terms of probation, or
2111 any other alternative deemed appropriate by the court. The court shall consider whether
2112 a failure to pay court imposed financial obligations was willful. In the event an
2113 alternative is not warranted, the court shall revoke the balance of probation or a period
2114 not to exceed 120 days in confinement, whichever is less; and

2115 (B) For failure to comply with any other general provision of probation or suspension,
2116 the court shall consider the use of alternatives to confinement, including community
2117 service or any other alternative deemed appropriate by the court. In the event an
2118 alternative is not warranted, the court shall revoke the balance of probation or a period
2119 not to exceed two years in confinement, whichever is less."

2120 **SECTION 7-4.**

2121 Said title is further amended by revising subsection (b) of and adding a new subsection to
2122 Code Section 42-8-103, relating to pay-only probation, to read as follows:

2123 "(b) When pay-only probation is imposed, the probation supervision fees shall be capped
2124 so as not to exceed three months of ordinary probation supervision fees notwithstanding
2125 the number of cases for which a fine and statutory surcharge were imposed or that the
2126 defendant was sentenced to serve consecutive sentences; provided, however, that collection
2127 of any probation supervision fee shall terminate as soon as all court imposed fines and
2128 statutory surcharges are paid in full; and provided, further, that when all such fines and
2129 statutory surcharges are paid in full, the probation officer or private probation officer, as
2130 the case may be, shall submit an order to the court terminating the probated sentence within
2131 30 days of fulfillment of such conditions. The court shall terminate such probated sentence
2132 or issue an order stating why such probated sentence shall continue."

2133 "(d) When a defendant is serving pay-only probation, upon motion by the defendant, the
2134 court may discharge such defendant from further supervision or otherwise terminate
2135 probation when it is satisfied that its action would be in the best interest of justice and the
2136 welfare of society."

2137 **SECTION 7-5.**

2138 Said title is further amended by adding a new Code section to read as follows:

2139 "42-8-103.1.

2140 (a) When a defendant is serving consecutive misdemeanor sentences, whether as a result
 2141 of one case from one jurisdiction or multiple cases from multiple jurisdictions, upon
 2142 motion by the defendant, the court may discharge such defendant from further supervision
 2143 or otherwise terminate probation when it is satisfied that its action would be in the best
 2144 interest of justice and the welfare of society. Such motion shall not be ripe until 12 months
 2145 after the sentence was entered and every four months thereafter. The defendant shall serve
 2146 the applicable entity or governing authority that is providing his or her probation services
 2147 with a copy of such motion.

2148 (b) When a defendant is serving consecutive misdemeanor sentences, his or her probation
 2149 officer or private probation officer, as the case may be, shall review such case after 12
 2150 consecutive months of probation supervision wherein the defendant has paid in full all
 2151 court imposed fines, statutory surcharges, and restitution and has otherwise completed all
 2152 testing, evaluations, and rehabilitative treatment programs ordered by the court to
 2153 determine if such officer recommends early termination of probation. Each such case shall
 2154 be reviewed every four months thereafter for the same determination until the termination,
 2155 expiration, or other disposition of the case. If such officer recommends early termination,
 2156 he or she shall immediately submit an order to the court to effectuate such purpose."

2157 **SECTION 7-6.**

2158 Said title is further amended by revising subparagraph (b)(1)(D) of Code Section 42-8-105,
 2159 relating to the probationer's obligation to keep an officer informed of certain information and
 2160 tolling, as follows:

2161 "(D) The officer has sent a letter by first-class mail to the probationer's last known
 2162 address, which shall be listed in the affidavit, advising the probationer that the officer
 2163 will seek a tolling order if the probationer does not report to such officer, either by
 2164 telephone or in person; within ten days of the date on which the letter was mailed; and"

2165 **SECTION 7-7.**

2166 Said title is further amended by revising Code Section 42-8-106, relating to the creation of
 2167 the advisory council, as follows:

2168 "42-8-106.

2169 (a) There is created an a judicial advisory council committee with respect to the provisions
 2170 of this article composed of one superior court judge designated by The Council of Superior
 2171 Court Judges of Georgia, one state court judge designated by The Council of State Court
 2172 Judges of Georgia, one municipal court judge designated by the Council of Municipal
 2173 Court Judges of Georgia, one probate court judge designated by The Council of Probate

2174 Court Judges of Georgia, one magistrate designated by the Council of Magistrate Court
2175 Judges, one attorney who specializes in criminal defense appointed by the Governor, one
2176 probation officer appointed by the Governor, and one private probation officer or
2177 individual with expertise in private probation services by virtue of his or her training or
2178 employment appointed by the Governor. The appointing authority shall determine the
2179 length of its appointee's term serving on such ~~council~~ committee. The judicial advisory
2180 committee shall provide advice and consultation to the board and DCS on matters relating
2181 to this article. The judicial advisory ~~council~~ committee shall elect a chairperson from
2182 among its membership and such other officers as it deems necessary.

2183 42-8-106.1.

2184 ~~(b)~~ The board shall have the following powers and duties; ~~provided that, with respect to~~
2185 ~~promulgating the rules, regulations, and standards set forth in this subsection, the board~~
2186 ~~shall act only upon consultation with and approval by the advisory board~~ seek input from
2187 the commissioner of community supervision:

2188 ~~(1) To review the uniform professional standards for private probation officers and~~
2189 ~~uniform contract standards for private probation contracts established in Code Section~~
2190 ~~42-8-107 and submit a report with its recommendations to the General Assembly;~~

2191 ~~(2)~~(1) To promulgate rules and regulations to implement ~~those~~ the uniform professional
2192 standards for probation officers and uniform ~~agreement~~ contract standards for the
2193 establishment of probation services by a county, municipality, or consolidated
2194 government established in Code Section 42-8-107;

2195 ~~(3)~~(2) To promulgate rules and regulations establishing a 40 hour initial orientation for
2196 newly hired private probation officers and for 20 hours per annum of continuing
2197 education for private probation officers, provided that the 40 hour initial orientation shall
2198 not be required of any person who has successfully completed a basic course of training
2199 for supervision of probationers or parolees certified by the Georgia Peace Officer
2200 Standards and Training Council or any private probation officer who has been employed
2201 by a private probation corporation, enterprise, or agency for at least six months as of
2202 July 1, 1996;

2203 ~~(4)~~(3) To promulgate rules and regulations establishing a 40 hour initial orientation for
2204 probation officers and for 20 hours per annum of continuing education for such probation
2205 officers, provided that the 40 hour initial orientation shall not be required of any person
2206 who has successfully completed a basic course of training for supervision of probationers
2207 or parolees certified by the Georgia Peace Officer Standards and Training Council or any
2208 probation officer who has been employed by a county, municipality, or consolidated
2209 government as of March 1, 2006;

2210 ~~(5)(4)~~ To promulgate rules and regulations relative to compliance with the provisions of
 2211 this article; and enforcement mechanisms ~~that may include, but are not limited to, the~~
 2212 ~~imposition of sanctions and fines and the voiding of contracts or agreements;~~
 2213 ~~(6)(5)~~ To promulgate rules and regulations establishing registration for any private
 2214 corporation, private enterprise, private agency, county, municipality, or consolidated
 2215 government providing probation services under the provisions of this article, subject to
 2216 the provisions of Code Section 42-8-109.3;
 2217 ~~(7) To produce an annual summary report;~~
 2218 ~~(8)(6)~~ To promulgate rules and regulations requiring criminal history record checks of
 2219 individuals seeking to become private probation officers and establishing procedures for
 2220 such criminal record checks. ~~The Department of Community Supervision DCS~~ on behalf
 2221 of the board shall conduct a criminal history records check for individuals seeking to
 2222 become probation officers as provided in Code Section 35-3-34. The board shall
 2223 promulgate rules and regulations relating to restrictions regarding misdemeanor
 2224 convictions. An agency or private entity shall also be authorized to conduct a criminal
 2225 history ~~background~~ records check of a person employed as a probation officer or private
 2226 probation officer or individuals seeking such positions. The criminal history records
 2227 check may be conducted in accordance with Code Section 35-3-34 and may be based
 2228 upon the submission of fingerprints of the individual whose records are requested. The
 2229 Georgia Bureau of Investigation shall submit the fingerprints to the Federal Bureau of
 2230 Investigation under the rules established by the United States Department of Justice for
 2231 processing and identification of records. The federal record, if any, shall be obtained and
 2232 returned to the requesting entity or agency;
 2233 ~~(9) To create committees from among the membership of the board as well as appoint~~
 2234 ~~other persons to serve in an advisory capacity to the board in implementing this article;~~
 2235 ~~and~~
 2236 ~~(10)(7)~~ To promulgate rules and regulations requiring probation officers and private
 2237 probation officers to be registered with ~~the board~~ DCS, pay a fee for such registration,
 2238 and provide for the ~~imposition of~~ board to impose sanctions and fines on such officers for
 2239 misconduct; and
 2240 (8) To impose sanctions for noncompliance with this article or the board's rules and
 2241 regulations."

2242 SECTION 7-8.

2243 Said title is further amended by revising subsections (a), (c), and (d) of Code Section
 2244 42-8-107, relating to uniform professional standards and uniform contract standards, as
 2245 follows:

2246 "(a) The uniform professional standards contained in this subsection shall be met by any
2247 person employed as and using the title of a private probation officer or probation officer.
2248 Any such person shall be at least 21 years of age at the time of appointment to the position
2249 of private probation officer or probation officer and shall have completed a standard
2250 two-year college course or have four years of law enforcement experience; provided,
2251 however, that any person employed as a private probation officer as of July 1, 1996, and
2252 who had at least six months of experience as a private probation officer or any person
2253 employed as a probation officer by a county, municipality, or consolidated government as
2254 of March 1, 2006, shall be exempt from such college requirements. Every private
2255 probation officer shall receive an initial 40 hours of orientation upon employment and shall
2256 receive 20 hours of continuing education per annum as approved by ~~the board~~ DCS,
2257 provided that the 40 hour initial orientation shall not be required of any person who has
2258 successfully completed a basic course of training for supervision of probationers or
2259 parolees certified by the Peace Officer Standards and Training Council or any private
2260 probation officer who has been employed by a private probation corporation, enterprise,
2261 or agency for at least six months as of July 1, 1996, or any person employed as a probation
2262 officer by a county, municipality, or consolidated government as of March 1, 2006. In no
2263 event shall any person convicted of a felony be employed as a probation officer or private
2264 probation officer."

2265 "(c) The uniform contract standards contained in this subsection shall apply to all counties,
2266 municipalities, and consolidated governments that enter into agreements ~~with a judge~~ to
2267 provide probation services under the authority of Code Section 42-8-101. The terms of any
2268 such agreement shall state at a minimum:

- 2269 (1) The extent of the services to be rendered by the local governing authority providing
2270 probation services;
- 2271 (2) Any requirements for staff qualifications, including those contained in this Code
2272 section;
- 2273 (3) Requirements for criminal record checks of staff in compliance with the rules and
2274 regulations established by the board;
- 2275 (4) Policies and procedures for the training of staff that comply with the rules and
2276 regulations established by the board;
- 2277 (5) Staffing levels and standards for offender supervision, including frequency and type
2278 of contacts with offenders;
- 2279 (6) Procedures for handling the collection of all court ordered fines, fees, and restitution;
- 2280 (7) Circumstances under which revocation of an offender's probation may be
2281 recommended;
- 2282 (8) Reporting and record-keeping requirements; and

(9) Default and agreement termination procedures.

~~(d) The board shall review the uniform professional standards and uniform contract and agreement standards contained in this Code section and shall submit a report on its findings to the General Assembly. The board shall submit its initial report on or before January 1, 2017, and shall continue such reviews every two years thereafter. Nothing contained in such report shall be considered to authorize or require a change in such standards without action by the General Assembly having the force and effect of law. Such report shall provide information which will allow the General Assembly to review the effectiveness of the minimum professional standards and, if necessary, to revise such standards. This subsection shall not be interpreted to prevent the board from making recommendations to the General Assembly prior to its required review and report."~~

SECTION 7-9.

Said title is further amended by revising Code Section 42-8-108, relating to quarterly reporting to the judge, as follows:

"42-8-108.

(a) Any private corporation, private enterprise, or private agency contracting to provide probation services or any county, municipality, or consolidated government entering into an agreement under the provisions of this article shall provide to the judge ~~with whom the~~ who consented to such contract or agreement ~~was made~~ and the board DCS a quarterly report summarizing the number of offenders under supervision; the amount of fines, statutory surcharges, and restitution collected; the amount of fees collected and the nature of such fees, including probation supervision fees, rehabilitation programming fees, electronic monitoring fees, drug or alcohol detection device fees, substance abuse or mental health evaluation or treatment fees if such services are provided directly or otherwise to the extent such fees are known, and drug testing fees; the number of community service hours performed by probationers under supervision; a listing of any other service for which a probationer was required to pay to attend; the number of offenders for whom supervision or rehabilitation has been terminated and the reason for the termination; and the number of warrants issued during the quarter, in such detail as ~~the board~~ DCS may require. Information reported pursuant to this subsection shall be annually submitted to the governing authority that entered into such contract and thereafter be subject to disclosure pursuant to Article 4 of Chapter 18 of Title 50. Local governments are encouraged to post electronic copies of the annual report on the local government's website, if such website exists.

(b) All records of any private corporation, private enterprise, or private agency contracting to provide services or of any county, municipality, or consolidated government entering

2319 into an agreement under the provisions of this article shall be open to inspection upon the
2320 request of the affected county, municipality, consolidated government, court, the
2321 Department of Audits and Accounts, an auditor appointed by the affected county,
2322 municipality, or consolidated government, Department of Corrections, ~~Department of~~
2323 ~~Community Supervision~~ DCS, State Board of Pardons and Paroles, or the board."

2324 **SECTION 7-10.**

2325 Said title is further amended by revising Code Section 42-8-109.2, relating to confidentiality
2326 of records, as follows:

2327 "42-8-109.2.

2328 (a) Except as provided in subsection (a) of Code Section 42-8-108 and subsection (b) of
2329 this Code section, all reports, files, records, and papers of whatever kind relative to the
2330 supervision of probationers by a private corporation, private enterprise, or private agency
2331 contracting under the provisions of this article or by a county, municipality, or consolidated
2332 government providing probation services under this article are declared to be confidential
2333 and shall be available only to the affected county, municipality, or consolidated
2334 government, or an auditor appointed by such county, municipality, or consolidated
2335 government, the judge handling a particular case, the Department of Audits and Accounts,
2336 Department of Corrections, ~~Department of Community Supervision~~ DCS, State Board of
2337 Pardons and Paroles, or the board.

2338 (b)(1) Any probationer under supervision under this article shall:

2339 (A) Be provided with a written receipt and a balance statement each time he or she
2340 makes a payment;

2341 (B) Be permitted, upon written request, to have a copy of correspondence, payment
2342 records, and reporting history from his or her probation file, one time, and thereafter,
2343 he or she shall be required to pay a fee as set by ~~the board~~ DCS; provided, however,
2344 that the board shall promulgate rules and regulations clarifying what confidential
2345 information may be withheld from such disclosure; and

2346 (C) Be permitted, upon written request to ~~the board~~ DCS, to have a copy of the
2347 supervision case notes from his or her probation file when the commissioner of
2348 community supervision authorizes the release of such information in a written order;
2349 provided, however, that the board shall promulgate rules and regulations clarifying
2350 what confidential information may be withheld from such disclosure.

2351 (2) When a probationer claims that information is being improperly withheld from his
2352 or her file, the probationer may file a motion with the sentencing court seeking an in
2353 camera inspection of such file. The probationer shall serve such motion on the
2354 prosecuting attorney and probation officer or private probation officer as appropriate.

2355 (3) The following shall be subject to disclosure pursuant to Article 4 of Chapter 18 of
 2356 Title 50:

2357 (A) The board's rules and regulations regarding contracts or agreements for the
 2358 provision of probation services;

2359 (B) The board's rules and regulations regarding the conduct of business by private
 2360 entities providing probation services as authorized by this article;

2361 (C) The board's rules and regulations regarding county, municipal, or consolidated
 2362 governments establishing probation systems as authorized by this article; and

2363 (D) The rules, regulations, operating procedures, and guidelines of any private
 2364 corporation, private enterprise, or private agency providing probation services under the
 2365 provisions of this article.

2366 (c) In the event of a transfer of the supervision of a probationer from a private corporation,
 2367 private enterprise, or private agency or county, municipality, or consolidated government
 2368 providing probation services under this article to ~~the Department of Community~~
 2369 ~~Supervision, the Department of Community Supervision~~ DCS, DCS shall have access to
 2370 any relevant reports, files, records, and papers of the transferring entity."

2371 SECTION 7-11.

2372 Said title is further amended by revising Code Section 42-8-109.3, relating to registration
 2373 with the board, as follows:

2374 "42-8-109.3.

2375 (a)(1) All private corporations, private enterprises, and private agencies contracting or
 2376 offering to contract for probation services shall register with ~~the board~~ DCS before
 2377 entering into any contract to provide services. Any private corporation, private
 2378 enterprise, or private agency registered with ~~the County and Municipal Probation~~
 2379 ~~Advisory Council~~ the board on or before June 30, ~~2015~~ 2016, shall be deemed registered
 2380 with ~~the board~~ DCS; provided, however, that ~~the board~~ DCS shall be authorized to review
 2381 such contract and shall be responsible for subsequent renewals or changes to such
 2382 contract. The information included in such registration shall include the name of the
 2383 corporation, enterprise, or agency, its principal business address and telephone number,
 2384 the name of its agent for communication, and other information in such detail as ~~the~~
 2385 ~~board~~ DCS may require. No registration fee shall be required.

2386 (2) Any private corporation, private enterprise, or private agency required to register
 2387 under the provisions of paragraph (1) of this subsection which fails or refuses to do so
 2388 shall be subject to revocation of any existing contracts, in addition to any other fines or
 2389 sanctions imposed by the board.

2390 (b)(1) All counties, municipalities, and consolidated governments agreeing or offering
2391 to agree to establish a probation system shall register with ~~the board~~ DCS before entering
2392 into an agreement ~~with the court~~ to provide services. Any county, municipality, or
2393 consolidated government that has a probation system registered with the ~~County and~~
2394 ~~Municipal Probation Advisory Council~~ board on or before June 30, 2015 2016, shall be
2395 deemed registered with ~~the board~~ DCS; provided, however, that ~~the board~~ DCS shall be
2396 authorized to review such systems and shall be responsible for subsequent renewals or
2397 changes to such systems. The information included in such registration shall include the
2398 name of the county, municipality, or consolidated government, the principal business
2399 address and telephone number, a contact name for communication with ~~the board~~ DCS,
2400 and other information in such detail as ~~the board~~ DCS may require. No registration fee
2401 shall be required.

2402 (2) Any county, municipality, or consolidated government required to register under the
2403 provisions of paragraph (1) of this subsection which fails or refuses to do so shall be
2404 subject to revocation of existing agreements, in addition to any other sanctions imposed
2405 by the board."

2406 SECTION 7-12.

2407 Said title is further amended by revising paragraph (1) of subsection (a) and paragraph (1)
2408 of subsection (b) of Code Section 42-8-109.4, relating to the applicability of the article to
2409 contractors for probation services, as follows:

2410 "(1) Register with ~~the board~~ DCS;"

2411 "(1) Register with ~~the board~~ DCS;"

2412 PART VIII

2413 PROVIDING FOR MISCELLANEOUS

2414 CROSS-REFERENCES IN TITLE 42

2415 SECTION 8-1.

2416 Said title is further amended by revising subsection (e) of Code Section 42-1-14, relating to
2417 risk assessment classification, as follows:

2418 "(e) Any sexually dangerous predator shall be required to wear an electronic monitoring
2419 system that shall have, at a minimum:

2420 (1) The capacity to locate and record the location of a sexually dangerous predator by a
2421 link to a global positioning satellite system;

2422 (2) The capacity to timely report or record a sexually dangerous predator's presence near
2423 or within a crime scene or in a prohibited area or the sexually dangerous predator's
2424 departure from specific geographic locations; and

2425 (3) An alarm that is automatically activated and broadcasts the sexually dangerous
2426 predator's location if the global positioning satellite monitor is removed or tampered with
2427 by anyone other than a law enforcement official designated to maintain and remove or
2428 replace the equipment.

2429 Such electronic monitoring system shall be worn by a sexually dangerous predator for the
2430 remainder of his or her natural life. The sexually dangerous predator shall pay the cost of
2431 such system to the Department of Community ~~Service~~ Supervision if the sexually
2432 dangerous predator is under probation or parole supervision and to the sheriff after the
2433 sexually dangerous predator completes his or her term of probation and parole or if the
2434 sexually dangerous predator has moved to this state from another state, territory, or
2435 country. The electronic monitoring system shall be placed upon the sexually dangerous
2436 predator prior to his or her release from confinement. If the sexual offender is not in
2437 custody, within 72 hours of the decision classifying the sexual offender as a sexually
2438 dangerous predator in accordance with subsection (b) of this Code section, the sexually
2439 dangerous predator shall report to the sheriff of the county of his or her residence for
2440 purposes of having the electronic monitoring system placed on the sexually dangerous
2441 predator."

2442 **SECTION 8-2.**

2443 Said title is further amended by revising subsection (i) of Code Section 42-2-11, relating to
2444 the powers and duties of the Board of Corrections, as follows:

2445 "(i) The board shall have the authority to request bids and proposals and to enter into
2446 contracts for the operation of probation detention centers by private companies and entities
2447 for the confinement of probationers under Code Section 42-8-35.4 ~~and probation diversion~~
2448 ~~centers for the confinement of probationers under Code Section 42-8-35.5.~~ The board shall
2449 have the authority to adopt, establish, and promulgate rules and regulations for the
2450 operation of probation detention ~~and probation diversion~~ centers by private companies and
2451 entities."

2452 **SECTION 8-3.**

2453 Said title is further amended by revising paragraph (4) of subsection (a) of Code Section
2454 42-2-15, relating to the employee benefit fund, as follows:

2455 "(4) 'Facility' means a prison, institution, detention center, ~~diversion center,~~ or such other
2456 similar property under the jurisdiction or operation of the department."

SECTION 8-4.

Said title is further amended by revising subsection (g) of Code Section 42-8-34, relating to sentencing hearings and determinations, as follows:

"(g) The sentencing judge shall not lose jurisdiction over any person placed on probation during the term of the person's probated sentence. The judge is empowered to revoke any or all of the probated sentence, rescind any or all of the sentence, or, in any manner deemed advisable by the judge, modify or change the probated sentence, including ordering the probationer into the sentencing options system, as provided in Article 6 of Chapter 3 of this title, at any time during the period of time prescribed for the probated sentence to run. In addition, when the judge is considering revoking a probated sentence in order to require the defendant to enter a drug court division, mental health court division, family treatment court division, or veterans court division and the length of the original sentence is insufficient to authorize such revocation, the defendant may voluntarily agree to an extension of his or her original sentence within the maximum sentence allowed by law, notwithstanding subsection (f) of Code Section 17-10-1. Such extension shall be for a period not to exceed three years, and upon completion of such specific court division program, the court may modify the terms of probation in accordance with subparagraph (a)(5)(A) of Code Section 17-10-1."

SECTION 8-5.

Said title is further amended by revising subsection (c) of Code Section 42-8-34.1, relating to revocation of probated or suspended sentence, as follows:

"(c) At any revocation hearing, upon proof that the defendant has violated any general provision of probation or suspension other than by commission of a new felony offense, the court shall consider the use of alternatives to include community service, ~~diversion centers~~, probation detention centers, special alternative incarceration, or any other alternative to confinement deemed appropriate by the court or as provided by the state or county. In the event the court determines that the defendant does not meet the criteria for such alternatives, the court may revoke the balance of probation or not more than two years in confinement, whichever is less."

SECTION 8-6.

Said title is further amended by revising Code Section 42-8-35.5, relating to confinement in probation diversion centers, as follows:

"42-8-35.5.

~~(a) Notwithstanding any other terms and conditions of probation which may be imposed, a court may require that probationers sentenced to a period of not less than one year on~~

2492 ~~probation shall satisfactorily complete, as a condition of such probation, a program in a~~
 2493 ~~probation diversion center. Probationers so sentenced shall be required to serve a period~~
 2494 ~~of confinement as specified in the court order, which confinement period shall be computed~~
 2495 ~~from the date of initial confinement in the diversion center.~~

2496 ~~(b) The court shall determine that the defendant is at least 17 years of age at the time of~~
 2497 ~~sentencing, is capable both physically and mentally of maintaining paid employment in the~~
 2498 ~~community, and does not unnecessarily jeopardize the safety of the community.~~

2499 ~~(c) The Department of Corrections may assess and collect room and board fees from~~
 2500 ~~diversion center program participants at a level set by the Department of Corrections~~
 2501 ~~Reserved."~~

2502 **SECTION 8-7.**

2503 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section
 2504 42-8-111, relating to court issuance of certificate for installation of ignition interlock devices,
 2505 as follows:

2506 "(3) Such person shall participate in a substance abuse treatment program as defined in
 2507 paragraph (16.2) of Code Section 40-5-1, or a drug court division program in compliance
 2508 with Code Section 15-1-15, a mental health court division in compliance with Code
 2509 Section 15-1-16, a veterans court division in compliance with Code Section 15-1-17, or
 2510 an operating under the influence court division in compliance with Code Section 15-1-19
 2511 for a period of not less than 120 days."

2512 **PART IX**

2513 **PAROLE BOARD AUTHORITY REGARDING**

2514 **CERTAIN DRUG OFFENDERS**

2515 **SECTION 9-1.**

2516 Said title is further amended by revising subsection (b) of Code Section 42-9-45, relating to
 2517 the State Board of Pardons and Paroles general rule-making authority, as follows:

2518 "(b)(1) An inmate serving a misdemeanor sentence or misdemeanor sentences shall only
 2519 be eligible for consideration for parole after the expiration of six months of his or her
 2520 sentence or sentences or one-third of the time of his or her sentence or sentences,
 2521 whichever is greater.

2522 (2) Except as otherwise provided in Code Sections 17-10-6.1 and 17-10-7 and
 2523 ~~paragraph paragraphs~~ (3) and (4) of this subsection, an inmate serving a felony sentence
 2524 or felony sentences shall only be eligible for consideration for parole after the expiration
 2525 of nine months of his or her sentence or one-third of the time of the sentences, whichever

is greater. Except as otherwise provided in Code Sections 17-10-6.1 and 17-10-7 and ~~paragraph~~ paragraphs (3) and (4) of this subsection, inmates serving sentences aggregating 21 years or more shall become eligible for consideration for parole upon completion of the service of seven years.

(3) When an inmate was sentenced pursuant to subsection (d) of Code Section 16-13-30 and subsection (c) of Code Section 17-10-7 to a term of at least 12 years and up to a life sentence, he or she may become eligible for consideration for parole if he or she:

(A) Has never been convicted of:

(i) A serious violent felony as such term is defined in Code Section 17-10-6.1;

(ii) An offense for which he or she was or could have been required to register pursuant to Code Section 42-1-12; provided, however, that this paragraph shall not apply to any felony that became punishable as a misdemeanor on or after July 1, 2006;

(iii) A violation of paragraph (1) or (2) of subsection (b) of Code Section 16-5-21;

(iv) A violation of Code Section 16-11-106; and

(v) A violation of Code Section 16-11-131;

(B) Has completed at least 12 years of his or her sentence;

(C) Has obtained a low-risk for recidivism rating as determined by a validated risk assessment instrument approved by the Department of Corrections;

(D) Has been classified as a medium or less than medium security risk for institutional housing classification purposes by the Department of Corrections;

(E) Has completed all criminogenic programming requirements as determined by a validated risk assessment instrument approved by the Department of Corrections;

(F) In the 12 months preceding consideration, has not been found guilty of any serious disciplinary infractions; and

(G) Has a high school diploma or general educational development (GED) diploma, unless he or she is unable to obtain such educational achievement due to a learning disability or illiteracy. If the inmate is incapable of obtaining such education, he or she shall have completed a job skills training program, a literacy program, an adult basic education program, or a faith based program.

(4) When an inmate was sentenced pursuant to subsection (c), (e), or (l) of Code Section 16-13-30 and subsection (c) of Code Section 17-10-7 to a term of at least six years, he or she may become eligible for consideration for parole if he or she:

(A) Has never been convicted of:

(i) A serious violent felony as such term is defined in Code Section 17-10-6.1;

(ii) An offense for which he or she was or could have been required to register pursuant to Code Section 42-1-12; provided, however, that this paragraph shall not

2563 apply to any felony that became punishable as a misdemeanor on or after July 1,
2564 2006;
2565 (iii) A violation of paragraph (1) or (2) of subsection (b) of Code Section 16-5-21;
2566 (iv) A violation of Code Section 16-11-106; and
2567 (v) A violation of Code Section 16-11-131;
2568 (B) Has completed at least six years of his or her sentence;
2569 (C) Has obtained a low-risk for recidivism rating as determined by a validated risk
2570 assessment instrument approved by the Department of Corrections;
2571 (D) Has been classified as a medium or less than medium security risk for institutional
2572 housing classification purposes by the Department of Corrections;
2573 (E) Has completed all criminogenic programming requirements as determined by a
2574 validated risk assessment instrument approved by the Department of Corrections;
2575 (F) In the 12 months preceding consideration, has not been found guilty of any serious
2576 disciplinary infractions; and
2577 (G) Has a high school diploma or general educational development (GED) diploma,
2578 unless he or she is unable to obtain such educational achievement due to a learning
2579 disability or illiteracy. If the inmate is incapable of obtaining such education, he or she
2580 shall have completed a job skills training program, a literacy program, an adult basic
2581 education program, or a faith based program."

2582 PART X

2583 PROFESSIONAL LICENSING CONSIDERATIONS

2584 SECTION 10-1.

2585 Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general
2586 provisions applicable to professions and businesses, is amended by revising Code
2587 Section 43-1-19, relating to grounds for refusing to grant or revoking licenses and
2588 probationary license, as follows:

2589 "43-1-19.

2590 (a) A professional licensing board shall have the authority to refuse to grant a license to
2591 an applicant therefor or to revoke the license of a person licensed by that board or to
2592 discipline a person licensed by that board, upon a finding by a majority of the entire board
2593 that the licensee or applicant has:

2594 (1) Failed to demonstrate the qualifications or standards for a license contained in this
2595 Code section, or under the laws, rules, or regulations under which licensure is sought or
2596 held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the
2597 board that he or she meets all the requirements for the issuance of a license, and, if the

board is not satisfied as to the applicant's qualifications, it may deny a license without a prior hearing; provided, however, that the applicant shall be allowed to appear before the board if he or she so desires;

(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of a business or profession licensed under this title or on any document connected therewith; ~~or~~ practiced fraud or deceit or intentionally made any false statement in obtaining a license to practice the licensed business or profession; or made a false statement or deceptive registration with the board;

(3) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States; as used in this paragraph, ~~and paragraph (4) of this subsection, and subsection (q) of this Code section~~, the term 'felony' shall include any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere; and, as used in this paragraph ~~and subsection (q) of this Code section~~, the term 'conviction' shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought;

(4) Been arrested, charged, and sentenced for the commission of any felony, or any crime involving moral turpitude, where:

(A) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(B) An adjudication of guilt or sentence was otherwise withheld or not entered on the charge, except with respect to a plea of nolo contendere.

The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender treatment shall be conclusive evidence of arrest and sentencing for such crime;

(5) Had his or her license to practice a business or profession licensed under this title revoked, suspended, or annulled by any lawful licensing authority other than the board; ~~or~~ had other disciplinary action taken against him or her by any such lawful licensing authority other than the board; ~~or~~ was denied a license by any such lawful licensing authority other than the board, pursuant to disciplinary proceedings; or was refused the renewal of a license by any such lawful licensing authority other than the board, pursuant to disciplinary proceedings;

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, ~~which conduct or practice that~~ materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this title; or is of a nature likely to jeopardize the interest of the public, ~~which; such~~ conduct or practice need not have resulted in actual injury to any person or be directly related to

2635 the practice of the licensed business or profession but shows that the licensee or applicant
2636 has committed any act or omission which is indicative of bad moral character or
2637 untrustworthiness; ~~unprofessional conduct.~~ Such conduct or practice shall also include
2638 any departure from, or the failure to conform to, the minimal reasonable standards of
2639 acceptable and prevailing practice of the business or profession licensed under this title;
2640 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or
2641 encourages any unlicensed person or any licensee whose license has been suspended or
2642 revoked by a professional licensing board to practice a business or profession licensed
2643 under this title or to practice outside the scope of any disciplinary limitation placed upon
2644 the licensee by the board;
2645 (8) Violated a statute, law, or any rule or regulation of this state, any other state, the
2646 professional licensing board regulating the business or profession licensed under this title,
2647 the United States, or any other lawful authority ~~(without regard to whether the violation~~
2648 ~~is criminally punishable);~~ which when such statute, law, or rule or regulation relates to
2649 or in part regulates the practice of a business or profession licensed under this title; and
2650 ~~when the licensee or applicant knows or should know that such action is violative of~~
2651 violates such statute, law, or rule; or violated a lawful order of the board previously
2652 entered by the board in a disciplinary hearing, consent decree, or license reinstatement;
2653 (9) Been adjudged mentally incompetent by a court of competent jurisdiction within or
2654 outside this state; any such adjudication shall automatically suspend the license of any
2655 such person and shall prevent the reissuance or renewal of any license so suspended for
2656 as so long as the adjudication of incompetence is in effect;
2657 (10) Displayed an inability to practice a business or profession licensed under this title
2658 with reasonable skill and safety to the public or has become unable to practice the
2659 licensed business or profession with reasonable skill and safety to the public by reason
2660 of illness; or the use of alcohol, drugs, narcotics, chemicals, or any other type of material;
2661 (11) Failed to comply with an order for child support as defined by Code
2662 Section 19-11-9.3; it shall be incumbent upon the applicant or licensee to supply a notice
2663 of release to the board from the child support agency within the Department of Human
2664 Services indicating that the applicant or licensee has come into compliance with an order
2665 for child support so that a license may ~~issue~~ be issued or ~~be~~ granted if all other conditions
2666 for licensure are met; or
2667 (12) Failed to enter into satisfactory repayment status and is a borrower in default as
2668 defined by Code Section 20-3-295; it shall be incumbent upon the applicant or licensee
2669 to supply a notice of release to the board from the Georgia Higher Education Assistance
2670 Corporation indicating that the applicant or licensee has entered into satisfactory

2671 repayment status so that a license may be issued or granted if all other conditions for
2672 licensure are met.

2673 (b) The provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'
2674 with respect to emergency action by a professional licensing board and summary
2675 suspension of a license are adopted and incorporated by reference into this Code section.

2676 (c) For purposes of this Code section, a professional licensing board may obtain, through
2677 subpoena by the division director, upon reasonable grounds, any and all records relating
2678 to the mental or physical condition of a licensee or applicant, and such records shall be
2679 admissible in any hearing before the board.

2680 (d) When a professional licensing board finds that any person is unqualified to be granted
2681 a license or finds that any person should be disciplined pursuant to subsection (a) of this
2682 Code section or the laws, rules, or regulations relating to the business or profession
2683 licensed by the board, the board may take any one or more of the following actions:

2684 (1) Refuse to grant or renew a license to an applicant;

2685 (2) Administer a public or private reprimand, but a private reprimand shall not be
2686 disclosed to any person except the licensee;

2687 (3) Suspend any license for a definite period or for an indefinite period in connection
2688 with any condition which may be attached to the restoration of ~~said~~ such license;

2689 (4) Limit or restrict any license as the board deems necessary for the protection of the
2690 public;

2691 (5) Revoke any license;

2692 (6) Condition the penalty upon, or withhold formal disposition pending, the applicant's
2693 or licensee's submission to such care, counseling, or treatment as the board may direct;

2694 (7) Impose a fine not to exceed \$500.00 for each violation of a law, rule, or regulation
2695 relating to the licensed business or profession; or

2696 (8) Impose on a licensee or applicant fees or charges in an amount necessary to
2697 reimburse the professional licensing board for the administrative and legal costs incurred
2698 by the board in conducting an investigative or disciplinary proceeding.

2699 (e) In addition to and in conjunction with the actions described in subsection (d) of this
2700 Code section, a professional licensing board may make a finding adverse to the licensee
2701 or applicant but withhold imposition of judgment and penalty; or it may impose the
2702 judgment and penalty but suspend enforcement thereof and place the licensee on probation,
2703 which ~~probation~~ may be vacated upon noncompliance with such reasonable terms as the
2704 board may impose.

2705 (f) Initial judicial review of a final decision of a professional licensing board shall be had
2706 solely in the superior court of the county of domicile of the board. The court may assess
2707 reasonable and necessary attorney's fees and expenses of litigation in any such review if,

upon the motion of any party or the court itself, it finds that an attorney or any party aggrieved by an action of the board appealed such action of the board or any part thereof when such appeal lacked substantial justification or when such appeal or any part thereof was interposed for delay or harassment or if it finds that an attorney or aggrieved party unnecessarily expanded the proceeding by other improper conduct. As used in this subsection, the term 'lacked substantial justification' means substantially frivolous, substantially groundless, or substantially vexatious.

(g) In its discretion, a professional licensing board may reinstate a license which has been revoked or issue a license which has been denied or refused, following such procedures as the board may prescribe by rule; and, as a condition thereof, it may impose any disciplinary or corrective method provided in this Code section or the laws relating to the licensed business or profession.

(h)(1) The division director is vested with the power and authority to make, or cause to be made through employees or agents of the division, such investigations as he or she or a respective board may deem necessary or proper for the enforcement of the provisions of this Code section and the laws relating to businesses and professions licensed by that board. Any person properly conducting an investigation on behalf of a professional licensing board shall have access to and may examine any writing, document, or other material relating to the fitness of any licensee or applicant. The division director or his or her appointed representative may issue subpoenas to compel access to any writing, document, or other material upon a determination that reasonable grounds exist for the belief that a violation of this Code section or any other law relating to the practice of the licensed business or profession subject to regulation or licensing by such board may have taken place.

(2) The results of all investigations initiated by the board shall be reported solely to the board, and the records of such investigations shall be kept for the board by the division director, with the board retaining the right to have access at any time to such records. No part of any such records shall be released, except to the board, for any purpose other than a hearing before the board, nor shall such records be subject to subpoena; provided, however, that the board shall be authorized to release such records to another enforcement agency or lawful licensing authority.

(3) If a licensee is the subject of a board inquiry, all records relating to any person who receives services rendered by that licensee in his or her capacity as licensee shall be admissible at any hearing held to determine whether a violation of this chapter has taken place, regardless of any statutory privilege; provided, however, that any documentary evidence relating to a person who received those services shall be reviewed in camera and shall not be disclosed to the public.

(4) The board shall have the authority to exclude all persons during its deliberations on disciplinary proceedings and to discuss any disciplinary matter in private with a licensee or applicant and the legal counsel of that licensee or applicant.

(5) When a member of the public files a complaint with a professional licensing board or the division director against a licensee, within 30 days after the conclusion of the investigation of such complaint, the professional licensing board or the division director shall notify the complainant of the disposition of such complaint. Such notification shall include whether any action was taken by the board with regard to such complaint and the nature of such action. In addition, the division director and the board shall upon request by the complainant advise the complainant as to the status of the complaint during the period of time that such complaint is pending.

(i) A person, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for reporting or investigating the acts or omissions of a licensee or applicant which violate the provisions of subsection (a) of this Code section or any other provision of law relating to a licensee's or applicant's fitness to practice a business or profession licensed under this title or for initiating or conducting proceedings against such licensee or applicant, if such report is made or action is taken in good faith, without fraud or malice. Any person who testifies or who makes a recommendation to a professional licensing board in the nature of peer review, in good faith, without fraud or malice, before the board in any proceeding involving the provisions of subsection (a) of this Code section or any other law relating to a licensee's or applicant's fitness to practice the business or profession licensed by the board shall be immune from civil and criminal liability for so testifying.

(j) Neither the issuance of a private reprimand nor the denial of a license by reciprocity nor the denial of a request for reinstatement of a revoked license nor the refusal to issue a previously denied license shall be considered to be a contested case within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; notice and hearing within the meaning of ~~said~~ such chapter shall not be required, but the applicant or licensee shall be allowed to appear before the board if he or she so requests. A board may resolve a pending action by the issuance of a letter of concern. Such letter shall not be considered a disciplinary action or a contested case under Chapter 13 of Title 50 and shall not be disclosed to any person except the licensee or applicant.

(k) If any licensee or applicant after reasonable notice fails to appear at any hearing of the professional licensing board for that licensee or applicant, the board may proceed to hear the evidence against such licensee or applicant and take action as if such licensee or applicant had been present. A notice of hearing, initial or recommended decision, or final decision of the board in a disciplinary proceeding shall be served personally upon the

licensee or applicant or served by certified mail or statutory overnight delivery, return receipt requested, to the last known address of record with the board. If such material is served by certified mail or statutory overnight delivery and is returned marked 'unclaimed' or 'refused' or is otherwise undeliverable and if the licensee or applicant cannot, after diligent effort, be located, the division director, or his or her designee, shall be deemed to be the agent for service for such licensee or applicant for purposes of this Code section, and service upon that director, or that director's designee, shall be deemed to be service upon the licensee or applicant.

(l) The voluntary surrender of a license or the failure to renew a license by the end of an established penalty period shall have the same effect as a revocation of ~~said~~ such license, subject to reinstatement in the discretion of a board. A board may restore and reissue a license to practice under the law relating to that board and, as a condition thereof, may impose any disciplinary sanction provided by this Code section or the law relating to that board.

(m) This Code section shall apply equally to all licensees or applicants whether individuals, partners, or members of any other incorporated or unincorporated associations, corporations, limited liability companies, or other associations of any kind whatsoever.

(n) Regulation by a professional licensing board of a business or profession licensed under this title shall not exempt that business or profession from regulation pursuant to any other applicable law, including but not limited to Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975.'

(o) Subsections (a), (d), and (e) of this Code section shall be supplemental to and shall not operate to prohibit any professional licensing board from acting pursuant to those provisions of law which may now or hereafter authorize other disciplinary grounds and actions for that particular board. In cases where those other provisions of law so authorize other disciplinary grounds and actions but subsection (a), (d), or (e) of this Code section ~~limit~~ limits such grounds or actions, those other provisions shall apply so long as the requirements of subsection (q) of this Code section are met.

(p)(1) Notwithstanding any other provision of this Code section or title, when an applicant submits his or her application for licensure or renewal, together with proof of completion of a drug court division ~~program~~, as set forth in Code Section 15-1-15, a mental health court division as set forth in Code Section 15-1-16, a veterans court division as set forth in Code Section 15-1-17, an operating under the influence court division as set forth in Code Section 15-1-19, or a family treatment court division as set forth in Code Section 15-11-70, a board shall issue the applicant a probationary license under the terms and conditions deemed appropriate by such board.

(2) Paragraph (1) of this subsection shall not supersede a board's consideration of an applicant's other prior criminal history or arrests or convictions that occur subsequent to completion of a drug court division program identified in paragraph (1) of this subsection. (q)(1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section or any other provision of law, no professional licensing board shall refuse to grant a license to an applicant therefor or shall revoke the license of a person licensed by that board due solely or in part to a conviction of any felony or due to any arrest, charge, and sentence for the commission of any felony unless such felony directly relates to the occupation for which the license is sought or held.

(2) In determining if a felony directly relates to the occupation for which the license is sought or held, the professional licensing board shall consider:

(A) The nature and seriousness of the felony and the relationship of the felony to the occupation for which the license is sought or held;

(B) The age of the person at the time the felony was committed;

(C) The length of time elapsed since the felony was committed;

(D) All circumstances relative to the felony, including, but not limited to, mitigating circumstances or social conditions surrounding the commission of the felony; and

(E) Evidence of rehabilitation and present fitness to perform the duties of the occupation for which the license is sought or held."

PART XI

FOOD STAMPS

SECTION 11-1.

Article 1 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to general provisions for public assistance, is amended by adding a new Code section to read as follows:

"49-4-22.

(a) An individual who was convicted under any state or federal law of an offense which has as an element the possession, use, or distribution of a controlled substance, as such term is defined in Code Section 16-13-21, and which is or would be classified as a felony under the laws of this state shall not be eligible for the federal Supplemental Nutrition Assistance Program while he or she is serving any term of imprisonment. If such individual was not sentenced to imprisonment, he or she shall be eligible for such program, provided that he or she remains compliant with the applicable general and special conditions of probation imposed. If such individual is sentenced to a term of imprisonment, after release from confinement, he or she shall be eligible for such program.

2853 provided that he or she remains compliant with the applicable general and special
2854 conditions of probation or parole imposed. If such individual violates the terms of
2855 probation as determined by court order or violates the terms of parole as determined by an
2856 order of the State Board of Pardons and Paroles, he or she shall lose eligibility for such
2857 program. If such individual successfully completes the original sentence imposed, he or
2858 she shall remain eligible for such program.
2859 (b) Any individual eligible for aid pursuant to this Code section shall be required to meet
2860 all other requirements for eligibility for such program."

2861 PART XII

2862 YOUTHFUL PROBATION SUPERVISION

2863 SECTION 12-1.

2864 Code Section 49-4A-2 of the Official Code of Georgia Annotated, relating to the creation of
2865 the Board of Juvenile Justice, is amended in subsection (b) by deleting "and" at the end of
2866 paragraph (4), by replacing the period with "; and" at the end of paragraph (5), and by adding
2867 a new paragraph to read as follows:

2868 "(6) Adopt rules and regulations governing the transfer of children who are at least 17
2869 years of age and are released from restrictive custody due to an adjudication for a Class
2870 A designated felony act or Class B designated felony act, as such terms are defined in
2871 Code Section 15-11-2, to the Department of Community Supervision to ensure balanced
2872 attention to the protection of the community, the imposition of accountability, and the
2873 development of competencies to enable each child to become a responsible and
2874 productive member of the community, taking into consideration a child's level of
2875 participation in the department's educational, vocational, and other services prior to such
2876 release."

2877 PART XIII

2878 PROVIDING FOR MISCELLANEOUS

2879 CROSS-REFERENCES IN THE CODE

2880 SECTION 13-1.

2881 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
2882 amended by revising subparagraph (b)(1)(B) of Code Section 16-8-14, relating to shoplifting,
2883 as follows:

2884 "(B) Upon conviction of a third offense for shoplifting, ~~where~~ when the first two
2885 offenses are either felonies or misdemeanors, or a combination of a felony and a

2886 misdemeanor, as defined by this Code section, in addition to or in lieu of any fine
2887 which might be imposed, the defendant shall be punished by imprisonment for not less
2888 than 30 days or confinement in a 'special alternative incarceration-probation boot camp,'
2889 probation detention center, ~~diversion center~~, or other community correctional facility
2890 of the Department of Corrections for a period of 120 days or shall be sentenced to
2891 monitored house arrest for a period of 120 days and, in addition to ~~either~~ such types of
2892 confinement, may be required to undergo psychological evaluation and treatment to be
2893 paid for by the defendant; and such sentence of imprisonment or confinement shall not
2894 be suspended, probated, deferred, or withheld; and"

2895 **SECTION 13-2.**

2896 Said title is further amended by revising paragraph (2) of subsection (c) of Code Section
2897 16-8-14.1, relating to refund fraud, as follows:

2898 "(2) Upon conviction of a third offense for a violation of any provision of this Code
2899 section, the defendant shall be guilty of a felony and, in addition to or in lieu of any fine
2900 which might be imposed, the defendant shall be punished by imprisonment for not less
2901 than 30 days or confinement in a 'special alternative incarceration-probation boot camp,'
2902 probation detention center, ~~diversion center~~, or other community correctional facility of
2903 the Department of Corrections for a period of 120 days or shall be sentenced to monitored
2904 house arrest for a period of 120 days and, in addition to ~~either~~ such types of confinement,
2905 may be required to undergo psychological evaluation and treatment to be paid for by the
2906 defendant; and such sentence of imprisonment or confinement shall not be suspended,
2907 probated, deferred, or withheld."

2908 **SECTION 13-3.**

2909 Said title is further amended by revising paragraph (2) of subsection (d) of Code Section
2910 16-11-135, relating to public or private employer's parking lots and rights of action, as
2911 follows:

2912 "(2) To any penal institution, correctional institution, detention facility, ~~diversion center~~,
2913 jail, or similar place of confinement or confinement alternative;"

2914 **SECTION 13-4.**

2915 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
2916 amended by revising subparagraph (a)(3)(A) of Code Section 17-10-1, relating to fixing of
2917 sentence, as follows:

2918 "(3)(A) Any part of a sentence of probation revoked for a violation other than a
2919 subsequent commission of any felony, a violation of a special condition, or a

2920 misdemeanor offense involving physical violence resulting in bodily injury to an
2921 innocent victim which in the opinion of the trial court constitutes a danger to the
2922 community or a serious infraction occurring while the defendant is assigned to an
2923 alternative probation confinement facility shall be served in a probation detention
2924 center, probation boot camp, ~~diversion center~~, weekend lock up, or confinement in a
2925 local jail or detention facility, or other community correctional alternatives available
2926 to the court or provided by the Department of Corrections."

2927 **SECTION 13-5.**

2928 Said title is further amended by revising paragraph (2) of subsection (a) of Code Section
2929 17-10-3, relating to punishment for misdemeanors generally, as follows:

2930 "(2) By confinement under the jurisdiction of the Board of Corrections in a state
2931 probation detention center ~~or diversion center~~ pursuant to Code Sections
2932 Section 42-8-35.4 ~~and 42-8-35.5~~, for a determinate term of months which shall not
2933 exceed a total term of 12 months; or"

2934 **PART XIV**

2935 **EFFECTIVE DATES AND REPEALER**

2936 **SECTION 14-1.**

2937 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
2938 July 1, 2016.

2939 (b) Part IX of this Act shall become effective upon its approval by the Governor or upon its
2940 becoming law without such approval. The provisions of Part IX of this Act shall be given
2941 retroactive effect to those sentences imposed before the effective date of Part IX of this Act.

2942 **SECTION 14-2.**

2943 All laws and parts of laws in conflict with this Act are repealed.