

House Bill 997

By: Representatives Leverett of the 123<sup>rd</sup>, Burchett of the 176<sup>th</sup>, Crowe of the 118<sup>th</sup>, Mathis of the 133<sup>rd</sup>, O'Steen of the 169<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 42 of the Official Code of Georgia Annotated, relating to penal institutions,  
2 so as to limit the time that Department of Community Supervision can hold certain inmates  
3 in a county facility; to increase the amount of reimbursement paid to counties by the  
4 Department of Corrections and the State Board of Pardons and Paroles for housing inmates;  
5 to provide revised time periods for when such reimbursement begins and ends; to prohibit  
6 certain inmates from serving sentences in a county facility following conviction, revocation  
7 of probation, or revocation of parole; to provide for exceptions; to provide for related  
8 matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
12 by revising Code Section 42-3-113, relating to system of administrative sanctions, as follows:  
13 "42-3-113.

14 (a) DCS shall be authorized to establish by rules and regulations a system of administrative  
15 sanctions as an alternative to judicial modifications or revocations for probationers who  
16 violate the terms and conditions of the sentencing options system established under this

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17 article. DCS may not, however, sanction probationers for violations of special conditions  
18 of probation or general conditions of probation for which the sentencing judge has  
19 expressed an intention that such violations be heard by the court pursuant to Code  
20 Section 42-8-34.1.

21 (b) DCS shall only impose restrictions which are equal to or less restrictive than the  
22 sanction cap set by the sentencing judge.

23 (c) The administrative sanctions which may be imposed by DCS are as follows, from most  
24 restrictive to least restrictive:

25 (1) Probation detention center or residential substance abuse treatment facility;

26 (2) Probation boot camp;

27 (3) DCS day reporting center;

28 (4) Electronic monitoring;

29 (5) Community service; or

30 (6) Probation supervision.

31 (d) DCS may order offenders sanctioned pursuant to paragraphs (1) through (3) of  
32 subsection (c) of this Code section to be held in ~~the local jail~~ custody at a county or  
33 municipal jail, county correctional institution, or other county or municipal detention center  
34 until transported to a designated state facility; provided, however, that such holding period  
35 may not exceed 30 days unless expressly approved by the sheriff, warden, or chief of police  
36 of such jail, correctional institution, or detention center and shall be subject to  
37 reimbursement in accordance with Code Section 42-5-51."

38 **SECTION 2.**

39 Said title is further amended by revising Code Section 42-5-50, relating to transmittal of  
40 information on convicted persons, place of detention, payment for inmates not transferred  
41 to the custody of the department, and notice in the event of convicted person free on bond  
42 pending appeal, as follows:

43 "42-5-50.

44 (a) The clerk of the court shall notify the commissioner of a sentence within 30 working  
45 days following the receipt of the sentence and send other documents set forth in this Code  
46 section. Such notice shall be submitted electronically and shall contain the following  
47 documents:

48 (1) A certified copy of the sentence;

49 (2) A complete history of the convicted person, including a certified copy of the  
50 indictment, accusation, or both and such other information as the commissioner may  
51 require;

52 (3) An affidavit of the custodian of such person indicating the total number of days the  
53 convicted person was incarcerated prior to the imposition of the sentence. It shall be the  
54 duty of the custodian of such person to transmit the affidavit provided for in this  
55 paragraph to the clerk of the superior court within ten days following the date on which  
56 the sentence is imposed;

57 (4) Order of probation revocation or tolling of probation; and

58 (5) A copy of the sentencing information report is required in all jurisdictions with an  
59 options system day reporting center certified by the Department of Community  
60 Supervision. The failure to provide the sentencing information report shall not cause an  
61 increase in the 15 day time period for the department to assign the inmate to a  
62 correctional institution as set forth in subsection (b) of this Code section.

63 All of the aforementioned documents shall be submitted on forms provided by the  
64 commissioner. The commissioner shall file one copy of each such document with the State  
65 Board of Pardons and Paroles within 30 working days of receipt of such documents from  
66 the clerk of the court. Except where the clerk is on a salary, the clerk shall receive from  
67 funds of the county the fee prescribed in Code Section 15-6-77 for such service.

68 (b) Within 15 days after the receipt of the information provided for in subsection (a) of this  
69 Code section, the commissioner shall assign the convicted person to a correctional

70 institution designated by the commissioner in accordance with subsection (b) of Code  
 71 Section 42-5-51. It shall be the financial responsibility of the correctional institution to  
 72 provide for the picking up and transportation, under guard, of the inmate to the inmate's  
 73 assigned place of detention. No court shall order the county to transport the inmate to the  
 74 inmate's assigned place of detention; provided, however, that, if If the inmate is assigned  
 75 to a county correctional institution or other county facility, the county shall assume such  
 76 duty and responsibility.

77 (c) The state shall pay ~~for each such inmate not transferred to the custody of the~~  
 78 ~~department from a county facility~~ the county the per diem rate ~~specified by subsection (c)~~  
 79 ~~of Code Section 42-5-51~~ for each day the inmate remains in the physical custody of the  
 80 ~~county after the department receives the notice provided by subsection (a) of this Code~~  
 81 ~~section~~ sheriff or warden as set forth in Code Section 42-5-51.

82 (d) In the event that the convicted person is free on bond pending the appeal of his or her  
 83 conviction, the notice provided for in subsection (a) of this Code section shall not be  
 84 transmitted to the commissioner until all appeals of such conviction have been disposed of  
 85 or until the bond shall be revoked."

### 86 SECTION 3.

87 Said title is further amended by revising Code Section 42-5-51, relating to jurisdiction over  
 88 certain misdemeanor offenders, designation of place of confinement of inmates,  
 89 reimbursement of county, and transfer of inmates to federal authority, as follows:

90 "42-5-51.

91 (a) The department shall have no authority, jurisdiction, or responsibility with respect to  
 92 misdemeanor offenders sentenced under paragraph (1) of subsection (a) of Code  
 93 Section 17-10-3 to confinement in the county or other jail, county correctional institution,  
 94 or such other places as counties may provide for maintenance of county inmates. The  
 95 county wherein ~~the~~ such sentence is imposed shall have the sole responsibility of executing

96 the sentence and of providing for the care, maintenance, and upkeep of the inmate while  
97 serving such sentence; provided, however, that, where the sentencing judge certifies to the  
98 department that the county facilities of that county are inadequate for maintaining female  
99 inmates, any female inmate serving such sentence may be committed to the department to  
100 serve her sentence in a state correctional institution, as may be directed by the department;  
101 provided, further, that the delivery of the female inmates to the proper place of  
102 incarceration shall be at the expense of the county of conviction.

103 (b) Where any person is convicted of any offense, misdemeanor, or felony and sentenced  
104 to serve time in any penal institution in this state other than as provided in subsection (a)  
105 of this Code section, he or she shall be committed to the custody of the commissioner who,  
106 with the approval of the board, shall designate the place of confinement where the sentence  
107 shall be served.

108 (c) After proper documentation is received from the clerk of the court as set forth in  
109 subsection (a) of Code Section 42-5-50, the department shall have 15 days to transfer an  
110 inmate under sentence to the place of confinement. ~~If the inmate is not transferred within~~  
111 ~~the 15 days, the~~

112 (d)(1) The department shall reimburse the county, in a sum not less than \$7.50 \$50.00  
113 per day per inmate and in such an amount as may be appropriated for this purpose by the  
114 General Assembly, for the cost of the incarceration, commencing 15 days after proper  
115 documentation is received by the department from the clerk of the court of the state  
116 inmate in a county facility for the duration set forth in paragraph (2) of this subsection;  
117 provided, however, that, subject to an appropriation of funds, local governing authorities,  
118 including but not limited to sheriffs, that have entered into memorandums of  
119 understanding or agreement or that demonstrate continuous attempts to enter into  
120 memorandums of understanding or agreement with the federal government under Section  
121 287(g) of the federal Immigration and Nationality Act shall receive an additional payment

122 in the amount of 10 percent of the established rate paid for reimbursement for the  
123 confinement of state inmates in local confinement facilities.

124 (2) Reimbursement under paragraph (1) of this subsection shall apply as follows:

125 (A) For an inmate sentenced to a term of incarceration in a correctional institution  
126 under the jurisdiction of the commissioner or the board after conviction, the period of  
127 such reimbursement shall begin on the date the order imposing such sentence is entered  
128 by the court;

129 (B) For an inmate sentenced to a term of incarceration in a correctional institution  
130 under the jurisdiction of the commissioner or the board after revocation of probation,  
131 the period of such reimbursement shall begin on the date the order revoking probation  
132 and imposing such sentence is entered by the court;

133 (C) For an inmate detained in a county jail, county correctional institution, or such  
134 other place as the county may provide for maintenance of county inmates based on a  
135 violation of felony probation and the commission of a new criminal offense, the period  
136 of reimbursement shall begin on the date the inmate is granted bail or other pretrial  
137 release for the new criminal offense under Code Section 17-6-1; and

138 (D) For an inmate detained in a county jail, county correctional institution, or such  
139 other place as the county may provide for maintenance of county inmates based solely  
140 on a violation of felony probation, the period of such reimbursement shall begin on the  
141 date of arrest and incarceration in such jail, correctional institution, or detention center.

142 (3) If more than one subparagraph under paragraph (2) of this subsection is applicable  
143 to the same inmate, the period of reimbursement shall begin on the earliest applicable  
144 date.

145 (4) The period of reimbursement under this subsection shall terminate on the date such  
146 inmate is transferred or released from the custody of the county jail, county correctional  
147 institution, or such other place as the county may provide for maintenance of county

148 inmates. The county shall not be entitled to reimbursement for any days that the inmate  
149 is not in the physical custody of any such jail, correctional institution, or detention center.

150 (e) The reimbursement provisions of this Code section shall ~~only~~ not apply to payment for  
151 the incarceration of ~~felony inmates available for transfer to the department, except~~ inmates  
152 under death sentence awaiting transfer after their initial trial, and shall not apply to inmates  
153 who were incarcerated under the custody of the commissioner at the time they were  
154 returned to the county jail for trial on additional charges or returned to the county jail for  
155 any other purposes, including for the purpose of a new trial.

156 ~~(d)~~(f) Notwithstanding any language in the sentence as passed by the court, the  
157 commissioner may designate as a place of confinement any available, suitable, and  
158 appropriate state or county correctional institution in this state operated under the  
159 jurisdiction or supervision of the department. The commissioner shall also have sole  
160 authority to transfer inmates from one state or county correctional institution in this state  
161 to any other such institution operated by or under the jurisdiction or supervision of or  
162 approved by the board. Neither male nor female state inmates shall be assigned to serve  
163 in any manner in a county jail unless they are participating in a state sponsored project and  
164 have the approval of the commissioner and the sheriff or the jail administrator of the  
165 county. Furthermore, the commissioner may transfer to the Attorney General of the United  
166 States for confinement any inmate if it is determined that the custody, care, treatment,  
167 training, or rehabilitation of the inmate has not been adequate or in the best interest of the  
168 inmate or his fellow inmates. The commissioner is authorized to contract with the Attorney  
169 General of the United States for the custody, care, subsistence, housing, treatment, training,  
170 and rehabilitation of such inmates.

171 (g) Except as otherwise provided for in this Code section or by express agreement with the  
172 sheriff or warden of a county jail, county correctional institution, or such other place as a  
173 county may provide for maintenance of county inmates, no person convicted of a felony  
174 offense, arrested and incarcerated for a violation of felony probation, or whose felony

175 probated sentence has been revoked shall serve his or her sentence or any remaining  
176 portion thereof in any such jail, correctional institution, or detention center."

177 **SECTION 4.**

178 Said title is further amended by revising Code Section 42-9-49, relating to reimbursement  
179 of counties for incarceration of persons arrested in accordance with Code Section 42-9-48,  
180 as follows:

181 "42-9-49.

182 (a) Except as otherwise provided for in this Code section or by express agreement with the  
183 sheriff or warden of a county jail, county correctional institution, or such other place as a  
184 county may provide for maintenance of county inmates, no person who has been arrested  
185 and incarcerated based on a felony parole warrant, or whose parole or conditional release  
186 has been revoked by the board, shall serve his or her sentence or any remaining portion  
187 thereof in any such jail, correctional institution, or detention center.

188 (b)(1) After proper documentation is received from the county, the board shall reimburse  
189 the county, pursuant to rules and regulations adopted by the board in a sum not less than  
190 \$50.00 per day per inmate and in the such an amount as may be appropriated for this  
191 purpose by the General Assembly, for the cost of incarceration of any person who is  
192 arrested pursuant to any warrant issued in accordance with Code Section 42-9-48 and  
193 incarcerated in the county jail, county correctional institution, or such other place as the  
194 county may provide for maintenance of county inmates for the duration set forth in  
195 paragraph (2) of this subsection.

196 (2) Reimbursement under paragraph (1) of this subsection shall begin on the date the  
197 inmate is arrested and incarcerated based on a felony parole warrant in the county jail,  
198 county correctional institution, or such other place as the county may provide for  
199 maintenance of county inmates.

200 (c) To the extent that funds are appropriated by the General Assembly for the purpose of  
201 reimbursement of medical expenses, the board ~~may~~ shall reimburse counties for the cost  
202 of medical services provided to persons so arrested.

203 (d) The liability of the board for such costs of incarceration shall begin when the person  
204 is incarcerated and shall end ~~upon revocation of parole or conditional release of the person~~  
205 on the date such person is transferred or released from the custody of the county jail,  
206 county correctional institution, or such other place as the county may provide for  
207 maintenance of county inmates.

208 (e) This Code section shall apply only to cases in which the board's warrant is the sole  
209 basis for incarceration."

210 **SECTION 5.**

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