

The House Committee on Judiciary, Non Civil offers the following substitute to HB 997:

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 prohibit courts or Department of Community Supervision from
4 requiring sheriffs, wardens, or chiefs of police to transport probationers to certain facilities;
5 to increase the amount of reimbursement paid to counties by the Department of Corrections
6 and the State Board of Pardons and Paroles for housing inmates; to provide revised time
7 periods for when such reimbursement begins and ends; to prohibit certain inmates from
8 serving sentences in a county facility following conviction, revocation of probation, or
9 revocation of parole; to provide for exceptions; to provide for related matters; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
14 by revising Code Section 42-3-113, relating to system of administrative sanctions, as follows:
15 "42-3-113.

H. B. 997 (SUB)

16 (a) DCS shall be authorized to establish by rules and regulations a system of administrative
17 sanctions as an alternative to judicial modifications or revocations for probationers who
18 violate the terms and conditions of the sentencing options system established under this
19 article. DCS may not, however, sanction probationers for violations of special conditions
20 of probation or general conditions of probation for which the sentencing judge has
21 expressed an intention that such violations be heard by the court pursuant to Code
22 Section 42-8-34.1.

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

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

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

28 (2) Probation boot camp;

29 (3) DCS day reporting center;

30 (4) Electronic monitoring;

31 (5) Community service; or

32 (6) Probation supervision.

33 (d) DCS may order offenders sanctioned pursuant to paragraphs (1) through (3) of
34 subsection (c) of this Code section to be held in ~~the local jail~~ custody at a county or
35 municipal jail, county correctional institution, or other county or municipal detention center
36 until transported to a designated state facility; provided, however, that such holding period
37 may not exceed 60 days unless expressly approved by the sheriff, warden, or chief of police
38 of such jail, correctional institution, or detention center. No sheriff, warden, or chief of
39 police of a county or municipal jail, county correctional institution, or other county or
40 municipal detention center shall be required by court order or by DCS rule or policy to
41 transport a probationer to a probation detention center, probation boot camp, or DCS day
42 reporting center."

43

SECTION 2.

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

48 "42-5-50.

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

53 (1) A certified copy of the sentence;

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

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

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

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

68 All of the aforementioned documents shall be submitted on forms provided by the
69 commissioner. The commissioner shall file one copy of each such document with the State

70 Board of Pardons and Paroles within 30 working days of receipt of such documents from
 71 the clerk of the court. Except where the clerk is on a salary, the clerk shall receive from
 72 funds of the county the fee prescribed in Code Section 15-6-77 for such service.

73 (b) Within 15 days after the receipt of the information provided for in subsection (a) of this
 74 Code section, the commissioner shall assign the convicted person to a correctional
 75 institution designated by the commissioner in accordance with subsection (b) of Code
 76 Section 42-5-51. It shall be the financial responsibility of the correctional institution to
 77 provide for the picking up and transportation, under guard, of the inmate to the inmate's
 78 assigned place of detention. No court shall order the county to transport the inmate to the
 79 inmate's assigned place of detention; provided, however, that, if If the inmate is assigned
 80 to a county correctional institution or other county facility, the county shall assume such
 81 duty and responsibility.

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

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

91 **SECTION 3.**

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

95 "42-5-51.

96 (a) The department shall have no authority, jurisdiction, or responsibility with respect to
97 misdemeanor offenders sentenced under paragraph (1) of subsection (a) of Code
98 Section 17-10-3 to confinement in the county or other jail, county correctional institution,
99 or such other places as counties may provide for maintenance of county inmates. The
100 county wherein ~~the~~ such sentence is imposed shall have the sole responsibility of executing
101 the sentence and of providing for the care, maintenance, and upkeep of the inmate while
102 serving such sentence; provided, however, that, where the sentencing judge certifies to the
103 department that the county facilities of that county are inadequate for maintaining female
104 inmates, any female inmate serving such sentence may be committed to the department to
105 serve her sentence in a state correctional institution, as may be directed by the department;
106 provided, further, that the delivery of the female inmates to the proper place of
107 incarceration shall be at the expense of the county of conviction.

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

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

117 (d)(1) The department shall reimburse the county, in a sum not less than ~~\$7.50~~ \$30.00
118 per day per inmate and in such an amount as may be appropriated for this purpose by the
119 General Assembly, for the cost of the incarceration, ~~commencing 15 days after proper~~
120 ~~documentation is received by the department from the clerk of the court~~ of the state
121 inmate in a county facility for the duration set forth in paragraph (2) of this subsection;

122 provided, however, that, subject to an appropriation of funds, local governing authorities,
123 including but not limited to sheriffs, that have entered into memorandums of
124 understanding or agreement or that demonstrate continuous attempts to enter into
125 memorandums of understanding or agreement with the federal government under Section
126 287(g) of the federal Immigration and Nationality Act shall receive an additional payment
127 in the amount of 10 percent of the established rate paid for reimbursement for the
128 confinement of state inmates in local confinement facilities.

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

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

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

138 (3) The period of reimbursement under this subsection shall terminate on the date such
139 inmate is transferred or released from the custody of the county jail, county correctional
140 institution, or such other place as the county may provide for maintenance of county
141 inmates. The county shall not be entitled to reimbursement for any days that the inmate
142 is not in the physical custody of any such jail, correctional institution, or detention center.

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

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

164 **SECTION 4.**

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

168 "42-9-49.

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

175 (b)(1) After proper documentation is received from the county, the board shall reimburse
176 the county, pursuant to rules and regulations adopted by the board in a sum not less than
177 \$30.00 per day per inmate and in the such an amount as may be appropriated for this
178 purpose by the General Assembly, for the cost of incarceration of any person who is
179 arrested pursuant to any warrant issued in accordance with Code Section 42-9-48 and
180 incarcerated in the county jail, county correctional institution, or such other place as the
181 county may provide for maintenance of county inmates for the duration set forth in
182 paragraph (2) of this subsection.

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

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

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

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

197 **SECTION 5.**

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