

The Senate Committee on Judiciary offered the following substitute to SB 407:

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 and Chapter 6A of Title 35 of the Official Code  
5 of Georgia Annotated, relating to courts and the Criminal Justice Coordinating Council,  
6 respectively, so as to provide for electronic filing in criminal cases and data collection and  
7 exchange in criminal and certain juvenile cases; to provide for definitions; to establish the  
8 Criminal Case Data Exchange Board under the Criminal Justice Coordinating Council and  
9 provide for its membership, terms, compensation, and duties; to provide for confidentiality  
10 of data; to provide for the Judicial Council of Georgia to develop a misdemeanor citation  
11 form; to allow misdemeanors to be prosecuted in state courts by use of citation; to amend  
12 Title 17, Chapter 5 of Title 40, Title 42, and Code Section 43-1-19 of the Official Code of  
13 Georgia Annotated, relating to criminal procedure, drivers' licenses, penal institutions, and  
14 grounds for refusing to grant or revoking professional licenses, respectively, so as to change  
15 provisions relating to the use of citations and setting bail; to clarify matters relating to  
16 sentencing, first offender treatment, pay-only probation, and the use of community service;  
17 to allow the Department of Driver Services to issue certain types of licenses and permits  
18 under certain conditions; to expand the types of activities and organizations that can be used  
19 by the court in ordering community service and clarify provisions relating thereto; to require  
20 time frames for certain actions involving probation supervision; to allow different levels of  
21 courts to consider retroactive petitions for first offender sentencing; to amend an Act relating  
22 to the effect of a confinement sentence when guilt has not been adjudicated, approved March  
23 20, 1985 (Ga. L. 1985, p. 380), so as to repeal a contingency based upon an amendment to  
24 the Constitution; to clarify the effect that a misdemeanor conviction involving moral  
25 turpitude or first offender punishment will have on a professional license; to amend Chapter  
26 2 of Title 31 and Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to  
27 the Department of Community Health and public assistance, respectively, so as to change  
28 provisions relating to the department's duties and responsibilities; to change provisions

29 relating to providing assistance to inmates who are eligible for Medicaid; to amend Title 16  
 30 of the Official Code of Georgia Annotated, relating to crimes and offenses, so as to increase  
 31 certain penalties relating to the theft of, the use of an altered identification mark on, or the  
 32 transfer to certain individuals of a firearm; to change provisions relating to possession of  
 33 firearms by convicted felons and first offender probationers; to provide for related matters;  
 34 to repeal conflicting laws; and for other purposes.

35 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

36 **PART I**

37 **SECTION 1-1.**

38 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
 39 Code Section 15-6-11, relating to electronic filings and payments, as follows:

40 "15-6-11.

41 (a) Pursuant to rules promulgated by the Criminal Case Data Exchange Board, on and after  
 42 January 1, 2019, a By court rule or standing order, any superior court may shall provide for  
 43 the filing of pleadings in criminal cases and any other ~~documents~~ document related thereto  
 44 and for the acceptance of payments and remittances by electronic means.

45 (b) By court rule or standing order, any superior court may provide for the filing of  
 46 pleadings and any other document related thereto in civil cases in a superior court and for  
 47 the acceptance of payments and remittances by electronic means.

48 (c) Nothing in this Code section shall be construed to prevent a clerk's acceptance of  
 49 payments and remittances by electronic means under the clerk's own authority."

50 **SECTION 1-2.**

51 Said title is further amended by revising subparagraph (a)(4)(B) and paragraph (18) of  
 52 subsection (a) of Code Section 15-6-61, relating to the duties of the clerk generally, as  
 53 follows:

54 "(B) An automated criminal case management system which shall contain a summary  
 55 record of all criminal indictments in which true bills are rendered and all criminal  
 56 accusations filed in the office of clerk of superior court in accordance with rules  
 57 promulgated by the Criminal Case Data Exchange Board. The criminal case  
 58 management system shall contain entries of other matters of a criminal nature filed with  
 59 the clerk, including quasi-civil proceedings and entries of cases which are ordered dead  
 60 docketed ~~at the discretion of the presiding judge and which shall be called only at the~~

61 judge's pleasure. When a case is ~~thus~~ dead docketed, all witnesses who may have been  
 62 subpoenaed therein shall be released from further attendance until resubpoenaed; and"  
 63 "(18) ~~To electronically collect and transmit to the Georgia Superior Court Clerks'~~  
 64 ~~Cooperative Authority~~ all data elements required in subsection (g) of Code Section  
 65 35-3-36, and such clerk of superior court may transmit such data to the Georgia Superior  
 66 Court Clerks' Cooperative Authority in a form and format required by ~~the Superior Court~~  
 67 ~~Clerks' Cooperative Authority~~ such authority and The Council of Superior Court Clerks  
 68 of Georgia. ~~The~~ Any data transmitted to the authority pursuant to this paragraph shall be  
 69 transmitted to the Georgia Crime Information Center in satisfaction of the clerk's duties  
 70 under subsection (g) of Code Section 35-3-36 and to the Georgia Courts Automation  
 71 Commission which shall provide the data to the Administrative Office of the Courts for  
 72 use by the state judicial branch. Public access to said data shall remain the responsibility  
 73 of the Georgia Crime Information Center. No release of collected data shall be made by  
 74 or through the authority;"

75 **SECTION 1-3.**

76 Said title is further amended by revising Code Section 15-7-5, relating to electronic filings  
 77 and payments, as follows:

78 "15-7-5.

79 (a) Pursuant to rules promulgated by the Criminal Case Data Exchange Board, on and after  
 80 January 1, 2019, a ~~By court rule or standing order,~~ any state court may ~~shall~~ provide for the  
 81 filing of pleadings ~~in criminal cases~~ and any other ~~documents~~ document related thereto and  
 82 for the acceptance of payments and remittances by electronic means.

83 (b) By court rule or standing order, any state court may provide for the filing of pleadings  
 84 and any other document related thereto in civil cases in a state court and for the acceptance  
 85 of payments and remittances by electronic means.

86 (c) Nothing in this Code section shall be construed to prevent a clerk's acceptance of  
 87 payments and remittances by electronic means under the clerk's own authority."

88 **SECTION 1-4.**

89 Said title is further amended in Code Section 15-11-64, relating to collection of information  
 90 by juvenile court clerks and reporting requirements, by adding a new subsection to read as  
 91 follows:

92 "(c) Pursuant to rules promulgated by the Judicial Council of Georgia, on and after  
 93 January 1, 2019, each clerk of the juvenile court shall collect data on each child alleged or  
 94 adjudicated to be a delinquent child and transmit such data as required by such rules. The  
 95 Judicial Council of Georgia shall make and publish in print or electronically such

96 state-wide minimum standards and rules as it deems necessary to carry out this subsection.  
 97 Each clerk of the juvenile court shall develop and enact policies and procedures necessary  
 98 to carry out the standards and rules created by the Judicial Council of Georgia."

99 **SECTION 1-5.**

100 Chapter 6A of Title 35 of the Official Code of Georgia Annotated, relating to the Criminal  
 101 Justice Coordinating Council, is amended by revising Code Section 35-6A-2, relating to the  
 102 creation of such council and assignment to the Georgia Bureau of Investigation, as follows:

103 "35-6A-2.

104 (a) There is established the Criminal Justice Coordinating Council of the State of Georgia  
 105 which is assigned to the Georgia Bureau of Investigation for administrative purposes only,  
 106 as prescribed in Code Section 50-4-3.

107 (b) As used in this chapter, the term:

108 (1) 'Board' means the Criminal Case Data Exchange Board.

109 (2) 'Council' means the Criminal Justice Coordinating Council."

110 **SECTION 1-6.**

111 Said chapter is further amended by adding two new Code sections to read as follows:

112 "35-6A-13.

113 (a) There is established the Criminal Case Data Exchange Board to the council which shall  
 114 consist of 15 members as follows:

115 (1) The director of the council, the director of the Georgia Crime Information Center, the  
 116 director of the Office of Planning and Budget, the director of the Administrative Office  
 117 of the Courts, the director of the Georgia Public Defender Council, the commissioner of  
 118 administrative services, the commissioner of corrections, the commissioner of community  
 119 supervision, the executive director of the Georgia Technology Authority, the executive  
 120 counsel of the Governor, and a representative of the Prosecuting Attorneys' Council of  
 121 the State of Georgia, provided that any such member may allow a designee to represent  
 122 him or her at a board meeting and vote in his or her stead; and

123 (2) Four members, one of whom is a superior court judge, one of whom is a clerk of a  
 124 superior court, one of whom is a sheriff, and one of whom is a county commissioner,  
 125 shall be appointed by the Governor for terms of four years; their initial appointments,  
 126 however, shall be one for a four-year term, one for a three-year term, one for a two-year  
 127 term, and one for a one-year term. No individual shall serve beyond the time he or she  
 128 holds the office by reason of which he or she was initially eligible for appointment.

129 (b) In the event of death, resignation, disqualification, or removal of any member of the  
130 board for any reason, vacancies shall be filled in the same manner as the original  
131 appointment and successors shall serve for the unexpired term.

132 (c) The initial terms for all members shall begin on July 1, 2018.

133 (d) Membership on the board shall not constitute public office, and no member shall be  
134 disqualified from holding public office by reason of his or her membership.

135 (e) The board shall elect a chairperson from among its membership and may elect such  
136 other officers and committees as it considers appropriate.

137 (f) Members of the board shall serve without compensation, although each member of the  
138 board shall be reimbursed for actual expenses incurred in the performance of his or her  
139 duties from funds available to the council. Such reimbursement shall be limited to all  
140 travel and other expenses necessarily incurred through service on the board, in compliance  
141 with this state's travel rules and regulations; provided, however, that in no case shall a  
142 member of the board be reimbursed for expenses incurred in the member's capacity as the  
143 representative of another state agency.

144 35-6A-14.

145 (a) The board shall:

146 (1) Meet at such times and places as it shall determine necessary or convenient to  
147 perform its duties. Such board shall also meet upon the call of the chairperson of the  
148 board, the chairperson of the council, or the Governor;

149 (2) Maintain minutes of its meetings;

150 (3) Promulgate rules with respect to courts receiving criminal case filings electronically  
151 and the exchange of data amongst agencies and entities with respect to a criminal case  
152 from its inception to its conclusion;

153 (4) Participate in the development and review of this state's criminal case data exchange  
154 and management system;

155 (5) Using the combined expertise and experience of its members, provide regular advice  
156 and counsel to the director of the council to enable the council to carry out its statutory  
157 duties under this chapter; and

158 (6) Carry out such duties that may be required by federal law or regulation so as to  
159 enable this state to receive and disburse federal funds for criminal case exchange and  
160 management.

161 (b) Public access to data that are collected or transmitted via the criminal case information  
162 exchange shall remain the responsibility of the Georgia Crime Information Center. No  
163 release of collected data shall be made by or through the Georgia Technology Authority."

164

**PART II**

165

**SECTION 2-1.**

166

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by adding a new Code section to read as follows:

167

168

"15-5-21.1.

169

The Judicial Council of Georgia shall develop a uniform misdemeanor citation and

170

complaint form for use by all law enforcement officials who are empowered to arrest

171

individuals for misdemeanors and local ordinance violations. Such form shall serve as the

172

citation, summons, accusation, or other instrument of prosecution of the offense or offenses

173

for which the accused is charged and as the record of the disposition of the matter by the

174

court before which the accused is brought, and shall contain such other matter as the

175

council shall provide. Each such form shall have a unique identifying number which shall

176

serve as the docket number for the court having jurisdiction of the accused. The Judicial

177

Council of Georgia shall promulgate rules for each class of court for the use of such

178

citations."

179

**SECTION 2-2.**

180

Said title is further amended by revising Code Section 15-7-42, relating to hearing on merits in open court and proceedings allowed in chambers, as follows:

181

182

"15-7-42.

183

(a) The prosecution of misdemeanors may proceed by accusation as provided in Code

184

Section 17-7-71, citation or citation and arrest as provided for by law, or summons.

185

(b) All trials on the merits shall be conducted in open court and, so far as convenient, in

186

a regular courtroom.

187

(c) All other proceedings, hearings, and acts not included in subsection (b) of this Code

188

section may be done or conducted by a judge in chambers and in the absence of the clerk

189

or other court officials. The judge of the court may hear motions and enter interlocutory

190

orders, in all cases pending in the court over which he or she presides, in open court or in

191

chambers."

192

**SECTION 2-3.**

193

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by revising Code Section 17-4-23, relating to the procedure for arrests by citation for motor vehicle violations and issuance of warrants for arrest for failure of persons charged to appear in court, as follows:

194

195

196

197 "17-4-23.

198 (a)(1) A law enforcement officer may arrest a person accused of violating any law or  
 199 ordinance enacted by local law governing the operation, licensing, registration,  
 200 maintenance, or inspection of motor vehicles, ~~or violating paragraph (2), (3), or (5) of~~  
 201 ~~subsection (a) of Code Section 3-3-23, or any misdemeanor violation of Code Section~~  
 202 ~~16-7-21, 16-8-14, 16-8-14.1, or 16-13-30~~ by the issuance of a citation, provided that the  
 203 offense is committed in his or her presence or information constituting a basis for arrest  
 204 ~~concerning the operation of a motor vehicle or a violation of paragraph (2), (3), or (5) of~~  
 205 ~~subsection (a) of Code Section 3-3-23~~ was received by the arresting officer or an  
 206 investigating officer from a law enforcement officer or other individual observing ~~the or~~  
 207 aware of such offense ~~being committed, except that, where the offense results in an~~  
 208 ~~accident, an investigating officer may issue citations regardless of whether the offense~~  
 209 ~~occurred in the presence of a law enforcement officer.~~ The arresting officer shall issue  
 210 ~~to such person~~ a citation to the accused which shall enumerate the specific charges  
 211 ~~against the person~~ and the date upon which ~~the person~~ he or she is to appear and answer  
 212 the charges or a notation that ~~the person~~ he or she will be later notified of the date upon  
 213 which ~~the person~~ he or she is to appear and answer the charges. ~~Whenever~~ When an  
 214 arresting officer makes an arrest concerning the operation of a motor vehicle based on  
 215 information received from another law enforcement officer who observed the offense  
 216 being committed, the citation shall list the name of each officer and each officer must be  
 217 present when the charges against the accused ~~person~~ are heard.

218 (2) Nothing in this subsection shall supersede the requirements for a custodial arrest if  
 219 required by law or fingerprinting if required by law or specified by the Attorney General.

220 (b) If the accused ~~person~~ fails to appear as specified in the citation, the judicial officer  
 221 having jurisdiction of the offense may issue a warrant ordering the apprehension of the  
 222 ~~person accused~~ and commanding that ~~he or she~~ he or she be brought before the court to answer the  
 223 charge contained within the citation and the charge of his or her failure to appear as  
 224 required. The ~~person accused~~ shall then be allowed to make a reasonable bond to appear  
 225 on a given date before the court.

226 (c) Notwithstanding subsection (b) of this Code section, when an accused was issued a  
 227 citation for a violation of Code Section 16-7-21, 16-8-14, 16-8-14.1, or 16-13-30, and the  
 228 accused fails to appear as specified in the citation, the judicial officer having jurisdiction  
 229 of the offense, absent a finding of sufficient excuse to appear at the time and place  
 230 specified in the citation, shall issue a warrant ordering the apprehension of the accused and  
 231 commanding that he or she be brought before the court to answer the charge contained

232 within the citation and the charge of his or her failure to appear as required. The accused  
 233 shall then be allowed to make a reasonable bond to appear on a given date before the  
 234 court."

#### 235 SECTION 2-4.

236 Said title is further amended by revising paragraph (1) of subsection (b) and subsections (e),  
 237 (f), and (i) of Code Section 17-6-1, relating to where offenses are bailable, procedure, bail  
 238 schedules, and appeal bonds, as follows:

239 "(b)(1) All offenses not included in subsection (a) of this Code section, inclusive of  
 240 offenses that are violations of local ordinances, are bailable by a court of inquiry. Except  
 241 as provided in subsection (g) of this Code section, at no time, either before a court of  
 242 inquiry, when indicted or accused, after a motion for new trial is made, or while an appeal  
 243 is pending, shall any person charged with a misdemeanor be refused bail. When  
 244 determining bail for a person charged with a misdemeanor, courts shall not impose  
 245 excessive bail and shall impose only the conditions reasonably necessary to ensure such  
 246 person attends court appearances and to protect the safety of any person or the public  
 247 given the circumstances of the alleged offense and the totality of circumstances."

248 "(e)(1) A court shall be authorized to release a person on bail if the court finds that the  
 249 person:

250 ~~(1)~~(A) Poses no significant risk of fleeing from the jurisdiction of the court or failing  
 251 to appear in court when required;

252 ~~(2)~~(B) Poses no significant threat or danger to any person, to the community, or to any  
 253 property in the community;

254 ~~(3)~~(C) Poses no significant risk of committing any felony pending trial; and

255 ~~(4)~~(D) Poses no significant risk of intimidating witnesses or otherwise obstructing the  
 256 administration of justice.

257 (2) When determining bail, as soon as possible, the court shall consider:

258 (A) The accused's financial resources and other assets, including whether any such  
 259 assets are jointly controlled;

260 (B) The accused's earnings and other income;

261 (C) The accused's financial obligations, including obligations to dependents;

262 (D) The purpose of bail; and

263 (E) Any other factor the court deems appropriate.

264 (3) However, if If the person is charged with a serious violent felony and has already  
 265 been convicted of a serious violent felony, or of an offense under the laws of any other  
 266 state or of the United States which offense if committed in this state would be a serious  
 267 violent felony, there shall be a rebuttable presumption that no condition or combination



268 of conditions will reasonably assure the appearance of the person as required or assure  
 269 the safety of any other person or the community. As used in this subsection, the term  
 270 'serious violent felony' means a serious violent felony as defined in Code Section  
 271 17-10-6.1.

272 (f)(1) Except as provided in subsection (a) of this Code section or as otherwise provided  
 273 in this subsection, the judge of any court of inquiry may by written order establish a  
 274 schedule of bails and unless otherwise ordered by the judge of any court, ~~a person~~  
 275 ~~charged with committing any offense~~ an accused shall be released from custody upon  
 276 posting bail as fixed in the schedule.

277 (2) For offenses involving an act of family violence, as defined in Code Section 19-13-1,  
 278 ~~the bail or other release from custody shall be set by a judge on an individual basis and~~  
 279 ~~a schedule of bails provided for in paragraph (1) of this subsection shall require increased~~  
 280 ~~bail and not be utilized; provided, however, that the judge~~ shall include a listing of  
 281 specific conditions which shall include, but not be limited to, having no contact of any  
 282 kind or character with the victim or any member of the victim's family or household, not  
 283 physically abusing or threatening to physically abuse the victim, the immediate  
 284 enrollment in and participation in domestic violence counseling, substance abuse therapy,  
 285 or other therapeutic requirements.

286 (3) For offenses involving an act of family violence, the judge shall determine whether  
 287 ~~the schedule of bails and~~ one or more ~~of its~~ specific conditions shall be used, except that  
 288 any offense involving an act of family violence and serious injury to the victim shall be  
 289 bailable only before a judge when the judge or the arresting officer is of the opinion that  
 290 the danger of further violence to or harassment or intimidation of the victim is such as to  
 291 make it desirable that the consideration of the imposition of additional conditions as  
 292 authorized in this Code section should be made. Upon setting bail in any case involving  
 293 family violence, the judge shall give particular consideration to the exigencies of the case  
 294 at hand and shall impose any specific conditions as he or she may deem necessary. As  
 295 used in this Code section, the term 'serious injury' means bodily harm capable of being  
 296 perceived by a person other than the victim and may include, but is not limited to,  
 297 substantially blackened eyes, substantially swollen lips or other facial or body parts,  
 298 substantial bruises to body parts, fractured bones, or permanent disfigurements and  
 299 wounds inflicted by deadly weapons or any other objects which, when used offensively  
 300 against a person, are capable of causing serious bodily injury.

301 (4) For violations of Code Section 16-15-4, the court shall require increased bail and  
 302 shall include as a condition of bail or pretrial release that the ~~defendant~~ accused shall not  
 303 have contact of any kind or character with any other member or associate of a criminal  
 304 street gang and, in cases involving a an alleged victim, that the ~~defendant~~ accused shall

305 not have contact of any kind or character with any such victim or any member of any  
306 such victim's family or household.

307 (5) For offenses involving violations of Code Section 40-6-393, bail or other release  
308 from custody shall be set by a judge on an individual basis and not a schedule of bails  
309 pursuant to this Code section."

310 "(i) As used in this Code section, the term 'bail' shall include ~~the~~ releasing of a person on  
311 such person's own recognizance, except as limited by ~~the provisions of~~ Code Section  
312 17-6-12."

### 313 SECTION 2-5.

314 Said title is further amended by revising subsections (b) and (d) of Code Section 17-6-12,  
315 relating to discretion of court to release person charged with crime on own recognizance only  
316 and the failure of such person to appear for trial, as follows:

317 "(b) A person charged with a bail restricted offense shall not be released on bail on his or  
318 her own recognizance for the purpose of entering a pretrial release program, a pretrial  
319 release and diversion program as provided for in Article 4 of Chapter 3 of Title 42, or a  
320 pretrial intervention and diversion program as provided for in Article 4 of Chapter 18 of  
321 Title 15, ~~or Article 5 of Chapter 8 of Title 42~~, or pursuant to Uniform Superior Court  
322 Rule 27, unless an elected magistrate, elected state or superior court judge, or other judge  
323 sitting by designation under the express written authority of such elected judge, enters a  
324 written order to the contrary specifying the reasons why such person should be released  
325 upon his or her own recognizance."

326 "(d) Upon the failure of a person released on his or her own recognizance ~~only~~ to appear  
327 for trial, if the release is not otherwise conditioned by the court, absent a finding of  
328 sufficient excuse to appear, the court ~~may~~ shall summarily issue an order for his or her  
329 arrest which shall be enforced as in cases of forfeited bonds."

### 330 SECTION 2-6.

331 Said title is further amended by revising subparagraph (a)(1)(B), paragraph (2) of subsection  
332 (a), and subsection (d) of Code Section 17-10-1, relating to fixing of sentence, as follows:

333 "(B) When a defendant with no prior felony conviction is convicted of felony offenses  
334 or is charged with felony offenses and is sentenced pursuant to subsection (a) or (c) of  
335 Code Section 16-13-2 or Article 3 of Chapter 8 of Title 42, ~~has no prior felony~~  
336 ~~conviction~~, and the court imposes a sentence of probation or not more than 12 months  
337 of imprisonment followed by a term of probation, ~~not to include a split sentence~~, the  
338 court shall include a behavioral incentive date in its sentencing order that does not  
339 exceed three years from the date such sentence is imposed. Within 60 days of the

340 expiration of such incentive date, if the defendant has not been arrested for anything  
 341 other than a nonserious traffic offense as defined in Code Section 35-3-37, has been  
 342 compliant with the general and special conditions of probation imposed, and has paid  
 343 all restitution owed, the Department of Community Supervision shall notify the  
 344 prosecuting attorney and the court of such facts. The Department of Community  
 345 Supervision shall provide the court with an order to terminate such defendant's  
 346 probation which the court shall execute unless the court or the prosecuting attorney  
 347 requests a hearing on such matter within 30 days of the receipt of such order. The court  
 348 shall take whatever action it determines would be for the best interest of justice and the  
 349 welfare of society."

350 "(2)(A) Active probation supervision shall terminate in all cases no later than two years  
 351 from the commencement of active probation supervision unless specially extended or  
 352 reinstated by the sentencing court upon notice and hearing and for good cause shown;  
 353 provided, however, that in those cases involving ~~the~~:

354 (i) The collection of restitution, the period of active probation supervision shall  
 355 remain in effect for so long as any such obligation is outstanding, or until termination  
 356 of the sentence, whichever first occurs, ~~and for those cases involving a~~

357 (ii) A conviction under Chapter 15 of Title 16, the 'Georgia Street Gang Terrorism  
 358 and Prevention Act,' the period of active probation supervision shall remain in effect  
 359 until the termination of the sentence, but shall not exceed five years unless as  
 360 otherwise provided in this paragraph; or

361 (iii) A conviction that requires the defendant to register on the state sexual offender  
 362 registry pursuant to Code Section 42-1-12, the period of active probation supervision  
 363 shall remain in effect until the court orders unsupervised probation, or until  
 364 termination of the sentence, whichever first occurs.

365 (B) Probation supervision ~~Supervision~~ shall not be required for defendants sentenced  
 366 to probation while the defendant is in the legal custody of the Department of  
 367 Corrections or the State Board of Pardons and Paroles."

368 "(d)(1) As used in this subsection, the term:

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

371 (B) 'Indigent' means an individual who earns less than 100 percent of the federal  
 372 poverty guidelines unless there is evidence that the individual has other resources that  
 373 might reasonably be used without undue hardship for such individual or his or her  
 374 dependents.

375 (C) 'Significant financial hardship' means a reasonable probability that an individual  
 376 will be unable to satisfy his or her financial obligations for two or more consecutive  
 377 months.

378 (D) 'Totally and permanently disabled' shall have the same meaning as set forth in  
 379 Code Section 49-4-80.

380 (2) In determining the financial obligations, other than restitution, to impose on the  
 381 defendant, the court shall consider:

382 (A) The defendant's financial resources and other assets, including whether any such  
 383 assets are jointly controlled;

384 (B) The defendant's earnings and other income;

385 (C) The defendant's financial obligations, including obligations to dependents;

386 (D) The period of time during which the probation order will be in effect;

387 (E) The goal of the punishment being imposed; and

388 (F) Any other factor the court deems appropriate.

389 (3) In any case involving a violation of local ordinance, misdemeanor, or a felony in  
 390 which the defendant has been punished in whole or in part by a fine, the sentencing judge  
 391 court shall be authorized to allow the defendant to satisfy such fine through community  
 392 service as defined in Code Section 42-3-50 as set forth in Article 3 of Chapter 3 of Title  
 393 42. The court may also allow the defendant to satisfy the payment of statutory surcharges  
 394 and any fee imposed in connection with probation supervision as set forth in Article 3 of  
 395 Chapter 3 of Title 42. One hour of community service shall equal the dollar amount of  
 396 one hour of paid labor at the minimum wage under the federal Fair Labor Standards Act  
 397 of 1938, in effect on January 1, 2017 2018, unless otherwise specified by the sentencing  
 398 judge court. A defendant shall be required to serve the number of hours in community  
 399 service which equals the number derived by dividing the amount of the fine owed by the  
 400 defendant for the fine, statutory surcharge, and any fee imposed in connection with  
 401 probation supervision by the federal minimum hourly wage or by the amount specified  
 402 by the sentencing judge court. If the court orders disabled person assistance or  
 403 educational advancement, the court shall determine the numbers of hours required to be  
 404 completed for such endeavors. Prior to or subsequent to sentencing, a defendant, or  
 405 subsequent to sentencing, a community supervision officer, may request that the court  
 406 make all or any portion of a fine, statutory surcharge, or any fee imposed in connection  
 407 with probation supervision be satisfied under this subsection.

408 (4) The court may waive, modify, or convert fines, any fee imposed in connection with  
 409 probation supervision, and any other moneys assessed by a provider of probation services  
 410 or the court, other than statutory surcharges, upon a determination by the court, prior to  
 411 or subsequent to sentencing, that a defendant has a significant financial hardship or

412 inability to pay or other extenuating factors exist which prohibit payment or collection;  
 413 provided, however, that the imposition of sanctions for failure to pay such sums shall be  
 414 within the discretion of the court through judicial process or hearings. If the court waives  
 415 a fine under this paragraph, it shall impose a theoretical fine and the defendant shall be  
 416 required to pay the statutory surcharges associated therewith.

417 (5) Unless rebutted by a preponderance of the evidence that a defendant will be able to  
 418 satisfy his or her financial obligations without undue hardship to the defendant or his or  
 419 her dependents, a defendant shall be presumed to have a significant financial hardship if  
 420 he or she:

- 421 (A) Has a developmental disability;  
 422 (B) Is totally and permanently disabled; or  
 423 (C) Is indigent."

424 **SECTION 2-7.**

425 Said title is further amended by revising Code Section 17-10-8, relating to the requirement  
 426 of payment of fine as condition precedent to probation and the rebate or refund of fine upon  
 427 probation revocation, as follows:

428 "17-10-8.

429 (a) In any a felony case where the judge may, by any law so authorizing, place on  
 430 probation a person convicted of a felony, the judge may in his discretion impose a fine on  
 431 the person so convicted as a condition to such probation. The fine shall when a maximum  
 432 statutory fine amount is not set by law, upon conviction, the court may impose a fine not  
 433 to exceed \$100,000.00 or the amount of the maximum fine which may be imposed for  
 434 conviction of such a felony, whichever is greater.

435 (b) In any case where when probation is revoked, the defendant shall not be entitled to any  
 436 rebate or refund of any part of the fine so paid."

437 **SECTION 2-8.**

438 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,  
 439 is amended by adding a new subsection to Code Section 40-5-22, relating to persons not to  
 440 licensed, minimum ages for licensees, school enrollment requirements, driving training  
 441 requirements, and limited driving permits, to read as follows:

442 "(e) The department may issue a probationary license, limited driving permit, or ignition  
 443 interlock device limited driving permit to any individual whose driver's license is expired;  
 444 provided, however, that he or she is otherwise eligible for such probationary license,  
 445 limited driving permit, or ignition interlock device limited driving permit pursuant to Code  
 446 Section 40-5-58, 40-5-64, 40-5-64.1, 40-5-75, or 40-5-76."

**SECTION 2-9.**

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

"40-5-76.

(a)(1) A judge presiding in a drug court division, mental health court division, veterans court division, or operating under the influence court division, as a reward or sanction to the defendant's behavior in such court division, may order the department to ~~reinstate:~~

(A) Reinstate a defendant's Georgia driver's license that has been or should be suspended pursuant to ~~Code Section 40-5-75, suspend such license, or issue~~ under the laws of this state;

(B) Issue to a defendant a limited driving permit ~~or ignition interlock device limited driving permit in accordance with the provisions~~ using the guidance 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.;~~

(C) Issue to a defendant an ignition interlock device limited driving permit using the guidance set forth in subsections (c) and (e) of Code Section 40-5-64.1 or with whatever conditions the court determines to be appropriate under the circumstances; or

(D) Suspend or revoke such license, limited driving permit, or ignition interlock device limited driving permit.

(2) 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~~ require the defendant to pay to the department the fee normally required for the reinstatement of such driver's license or issuance of such limited driving permit or ignition interlock device limited driving permit or waive such fee.

(3) The court may order the department to issue to a defendant a limited driving permit or ignition interlock device limited driving permit pursuant to this subsection for a one-year period, and may allow such permit to be renewed for a one-year period, and shall provide the department with such order.

(b) If the offense for which the defendant was convicted did not directly relate to the operation of a motor vehicle, a judge presiding in any court, other than the court divisions specified in subsection (a) of this Code section, may order the department to reinstate a defendant's driver's license that has been or should be suspended pursuant to ~~Code Section 40-5-75 or,~~ issue to a defendant a limited driving permit ~~or ignition interlock device limited driving permit in accordance with the provisions~~ using the guidance set forth in subsections (c), (c.1), and (d) of Code Section 40-5-64 ~~if the offense for which the~~

484 ~~defendant was convicted did not directly relate to the operation of a motor vehicle, or issue~~  
 485 ~~to a defendant an ignition interlock device limited driving permit using the guidance set~~  
 486 ~~forth in subsections (c) and (e) of Code Section 40-5-64.1. The court shall determine what~~  
 487 ~~fees, if any, shall be paid to the department require the defendant to pay to the department~~  
 488 ~~the fee normally required~~ for the reinstatement of such driver's license or issuance of such  
 489 limited driving permit or ignition interlock device limited driving permit, ~~provided that~~  
 490 ~~such fee shall not be greater than the fee normally imposed for such services or waive such~~  
 491 ~~fee.~~ Such judge may also order the department to suspend a defendant's driver's license  
 492 ~~that could have been suspended pursuant to Code Section 40-5-75, limited driving permit,~~  
 493 ~~or ignition interlock device limited driving permit~~ as a consequence of the defendant's  
 494 violation of the terms of his or her probation.

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

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

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

506 **SECTION 2-10.**

507 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
 508 by revising Article 3 of Chapter 3, relating to community service, as follows:

509 "ARTICLE 3

510 42-3-50.

511 (a) As used in this article, the term:

512 (1) 'Agency' means any private or public ~~agency or organization approved by the court~~  
 513 ~~to participate in a community service program~~ entity or organization that provides  
 514 services to the public and enhances the social welfare and general well-being of the  
 515 community. Such term may include religious and educational institutions.

516 (2) 'Community service' means uncompensated work by an offender with an agency for  
 517 ~~the benefit of the community~~ pursuant to an order by a court as a condition of probation

518 or in lieu of payment of financial obligations imposed by a court. Such term includes  
 519 uncompensated service by an offender who lives in the household of a disabled person  
 520 and provides aid and services to such disabled person, including, but not limited to,  
 521 cooking, housecleaning, shopping, driving, bathing, and dressing.

522 (3) 'Community service officer' means an individual appointed by the court to place and  
 523 supervise offenders sentenced to community service, disabled person assistance, or  
 524 educational advancement. Such term ~~may mean~~ includes a paid professional or a  
 525 volunteer.

526 (4) 'Disabled person assistance' means uncompensated service by an offender who lives  
 527 in the household of a disabled person and provides aid and services to such disabled  
 528 person, including, but not limited to, cooking, housecleaning, shopping, driving, bathing,  
 529 and dressing.

530 (5) 'Educational advancement' means attending a work or job skills training program, a  
 531 preparatory class for the general educational development (GED) diploma, or similar  
 532 activity.

533 (b) Except as provided in subsection (c) of this Code section, it shall be unlawful for an  
 534 agency or community service officer to use or allow an offender to be used for any purpose  
 535 resulting in private gain to any individual.

536 (c) Subsection (b) of this Code section shall not apply to:

537 (1) ~~Services provided by an offender to a disabled person in accordance with paragraph~~  
 538 ~~(1) of subsection (c) of Code Section 42-3-52~~ Allowing an offender to provide disabled  
 539 person assistance;

540 (2) Work on private property because of a natural disaster; or

541 (3) An order or direction by the ~~sentencing~~ court.

542 (d) Any person who violates subsection (b) of this Code section shall be guilty of a  
 543 misdemeanor.

544 42-3-51.

545 (a) Agencies desiring to allow offenders to participate in a community service ~~their~~  
 546 program shall file with the court a letter of application showing:

547 (1) Eligibility;

548 (2) Number of offenders who may be placed with the agency;

549 (3) Work to be performed by the offender; and

550 (4) Provisions for supervising the offender.

551 (b) An agency selected ~~for the community service program~~ by the court shall work  
 552 offenders who are assigned to the agency by the court. If an offender violates a court order,  
 553 the agency shall report such violation to the community service officer.



554 (c) If an agency violates any court order or ~~provision~~ of this article, the offender shall be  
 555 removed from the agency and the agency shall no longer be eligible to participate in the  
 556 court's community service, disabled person assistance, or educational advancement  
 557 program.

558 (d) No agency or community service officer shall be liable at law as a result of any of such  
 559 agency's or community service officer's acts performed while an offender was participating  
 560 in a community service, disabled person assistance, or educational advancement program.  
 561 This limitation of liability shall not apply to actions on the part of any agency or  
 562 community service officer which constitute gross negligence, recklessness, or willful  
 563 misconduct.

564 42-3-52.

565 (a) Community service, disabled person assistance, or educational advancement may be  
 566 considered as a condition of probation or in lieu of court imposed financial obligations with  
 567 primary consideration given to the following categories of offenders:

- 568 (1) Traffic violations;  
 569 (2) Ordinance violations;  
 570 (3) Noninjurious or nondestructive, nonviolent misdemeanors;  
 571 (4) Noninjurious or nondestructive, nonviolent felonies; and  
 572 (5) Other offenders considered upon the discretion of the court.

573 (b) The court may confer with the prosecuting attorney, the offender or his or her attorney  
 574 if the offender is represented by an attorney, a community supervision officer, a community  
 575 service officer, or other interested persons to determine if ~~the community service program,~~  
 576 disabled person assistance, or educational advancement is appropriate for an offender. A  
 577 court order shall specify that the court has approved community service, disabled person  
 578 assistance, or educational assistance for an offender. If community service or educational  
 579 advancement is ordered ~~as a condition of probation~~, the court shall order:

- 580 (1) Not less than 20 hours nor more than 250 hours in cases involving traffic or  
 581 ordinance violations or misdemeanors, such service to be completed within one year; or  
 582 (2) Not less than 20 hours nor more than 500 hours in felony cases, such service to be  
 583 completed within three years.

584 (c)(1) Any agency may recommend to the court that certain disabled persons are in need  
 585 of a ~~live-in attendant~~ disabled person assistance. ~~The court shall confer with the~~  
 586 ~~prosecuting attorney, the offender or his or her attorney if the offender is represented by~~  
 587 ~~an attorney, a community supervision officer, a community service officer, or other~~  
 588 ~~interested persons to determine if a community service program involving a disabled~~  
 589 ~~person is appropriate for an offender. If community service as a live-in attendant for a~~

590 If disabled person assistance is deemed appropriate and if both the offender and the  
 591 disabled person consent to such service, the court may order ~~such live-in community~~  
 592 ~~service as a condition of probation~~ disabled person assistance but for no longer than two  
 593 years.

594 (2) The agency shall be responsible for coordinating the provisions of the cost of food  
 595 or other necessities for the offender which the disabled person is not able to provide. The  
 596 agency, with the approval of the court, shall determine a schedule which will provide the  
 597 offender with certain free hours each week.

598 (3) Such live-in arrangement shall be terminated by the court upon the request of the  
 599 offender or the disabled person. Upon termination of such arrangement, the court shall  
 600 determine if the offender has met the conditions of ~~probation~~ his or her sentence.

601 (4) The appropriate agency shall make personal contact with the disabled person on a  
 602 frequent basis to ensure the safety and welfare of the disabled person.

603 (d) The court may order an offender to perform community service hours in a 40 hour per  
 604 week work detail in lieu of incarceration.

605 (e) Community service, disabled person assistance, or educational advancement hours may  
 606 be added to original court ordered hours as a disciplinary action by the court, as an  
 607 additional requirement of any program in lieu of incarceration, or as part of the sentencing  
 608 options system as set forth in Article 6 of this chapter.

609 42-3-53.

610 The community service officer shall place an offender sentenced to community service,  
 611 disabled person assistance, or educational advancement ~~as a condition of probation~~ with  
 612 an appropriate agency. The agency and work schedule shall be approved by the court. If  
 613 the offender is employed at the time of sentencing or if the offender becomes employed  
 614 after sentencing, the community service officer shall consider the offender's work schedule  
 615 and, to the extent practicable, shall schedule the community service, disabled person  
 616 assistance, or educational advancement so that it will not conflict with the offender's work  
 617 schedule. This scheduling accommodation shall not be construed as requiring the  
 618 community service officer to alter scheduled community service, disabled person  
 619 assistance, or educational advancement based on changes in an offender's work schedule.  
 620 The community service officer shall supervise the offender for the duration of the sentence  
 621 which requires community service ~~sentence~~, disabled person assistance, or educational  
 622 advancement. Upon completion of the ~~community service~~ such sentence, the community  
 623 service officer shall prepare a written report evaluating the offender's performance which  
 624 shall be used to determine if the conditions of probation or sentence have been satisfied.

625 42-3-54.

626 (a) ~~The provisions of Article 2 of Chapter 8 of this title shall be applicable to offenders~~  
 627 ~~sentenced to community service, disabled person assistance, or educational advancement~~  
 628 ~~as a condition of probation pursuant to this article. The provisions of Article 3 of Chapter~~  
 629 ~~8 of this title shall be applicable to first offenders sentenced to community service, disabled~~  
 630 ~~person assistance, or educational advancement pursuant to this article. The provisions of~~  
 631 ~~Article 6 of Chapter 8 of this title shall be applicable to misdemeanor or ordinance violator~~  
 632 ~~offenders sentenced to community service, disabled person assistance, or educational~~  
 633 ~~advancement as a condition of probation pursuant to this article.~~

634 (b) Any offender who provides ~~live-in community service~~ disabled person assistance but  
 635 who is later incarcerated for breaking the conditions of probation or for any other cause  
 636 may be awarded good time for each day of ~~live-in community service~~ disabled person  
 637 assistance the same as if such offender were in prison for such number of days."

#### 638 SECTION 2-11.

639 Said title is further amended by revising paragraph (2) of subsection (e) of Code Section  
 640 42-8-34, relating to sentencing hearings and determinations, presentence investigations,  
 641 payment of fees, fines, and costs, post-conviction, presentence bond, continuing jurisdiction,  
 642 and transferral of probation supervision, as follows:

643 "(2) The court may convert fines, statutory surcharges, and probation supervision fees  
 644 to community service, disabled person assistance, or educational advancement on the  
 645 same basis as it allows a defendant to pay a fine through community service, disabled  
 646 person assistance, or educational advancement as set forth in subsection (d) of Code  
 647 Section 17-10-1."

#### 648 SECTION 2-12.

649 Said title is further amended by revising paragraph (2) of subsection (d) of Code Section  
 650 42-8-37, relating to the effect of termination of the probated portion of a sentence and review  
 651 of cases of persons receiving probated sentences, as follows:

652 "(2) When the court is presented with such petition, it shall take whatever action it  
 653 determines would be for the best interest of justice and the welfare of society. When such  
 654 petition is unopposed, the court shall issue an order as soon as possible or otherwise set  
 655 the matter for a hearing within 90 days of receiving such petition."

656

**SECTION 2-13.**

657

Said title is further amended by revising paragraph (1) of subsection (b) of Code Section 42-8-62.1, relating to limiting public access to first offender status, petitioning, and sealing a record, as follows:

658

659

660

"(b)(1) At the time of sentencing, or during the term of a sentence that was imposed before July 1, 2016, 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:

661

662

663

664

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

665

666

667

(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

668

669

670

(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."

671

**SECTION 2-14.**

672

Said title is further amended in Code Section 42-8-66, relating to a petition for exoneration and discharge, hearing, and retroactive grant of first offender status, by revising subsection (a) and adding a new subsection to read as follows:

673

674

675

"(a)(1) 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 exoneration of guilt and discharge pursuant to this article.

676

677

678

679

680

681

682

683

(2) An individual who was sentenced between March 18, 1968, and October 31, 1982, to a period of incarceration not exceeding one year but who would otherwise have qualified for sentencing pursuant to this article may, with the consent of the prosecuting attorney, petition the ~~superior court in the county~~ in which he or she was convicted for exoneration of guilt and discharge pursuant to this article."

684

"(h) There shall be no filing fee charged for a petition filed pursuant to this Code section."

685

**SECTION 2-15.**

686

Said title is further amended by revising subsection (d) of Code Section 42-8-102, relating to probation and supervision, determination of fees, fines, and restitution, converting moneys owed to community service, continuing jurisdiction, revocation, and transfer, as follows:

687

688

689

690

"(d) The court may convert fines, statutory surcharges, and probation supervision fees to community service, disabled person assistance, or educational advancement on the same

691 basis as it allows a defendant to pay a fine through community service, disabled person  
 692 assistance, or educational advancement as set forth in subsection (d) of Code Section  
 693 17-10-1."

694 **SECTION 2-16.**

695 Said title is further amended by revising subsection (b) of Code Section 42-8-103, relating  
 696 to pay-only probation and discharge or termination of probation, as follows:

697 "(b) When pay-only probation is imposed, the ~~probation supervision fees~~ total maximum  
 698 fee collected shall be capped so as not to exceed three months of ordinary probation  
 699 supervision fees at a monthly rate not to exceed the rate set forth in the contract between  
 700 the court and the provider of services, notwithstanding the number of cases for which a fine  
 701 and statutory surcharge were imposed or that the defendant was sentenced to serve  
 702 consecutive sentences; provided, however, that collection of ~~any probation supervision~~  
 703 such fee shall terminate as soon as all court imposed fines and statutory surcharges are paid  
 704 in full; and provided, further, that when all such fines and statutory surcharges are paid in  
 705 full, the probation officer or private probation officer, as the case may be, shall submit an  
 706 order to the court terminating the probated sentence within 30 days of fulfillment of such  
 707 conditions. ~~The~~ Within 90 days of receiving such order, the court shall terminate issue an  
 708 order terminating such probated sentence or issue an order stating why such probated  
 709 sentence shall continue."

710 **SECTION 2-17.**

711 Said title is further amended by revising paragraph (2) of subsection (b) of Code Section  
 712 42-8-105, relating to a probationer's obligation to keep officer informed of certain  
 713 information and tolling for failure to meet certain obligations, as follows:

714 "(2) In the event the probationer ~~reports~~ does not report to his or her probation officer or  
 715 private probation officer, as the case may be, within the period prescribed in  
 716 subparagraph (D) of paragraph (1) of this subsection, ~~the probationer shall be scheduled~~  
 717 ~~to appear on the next available court calendar for a hearing to consider whether the~~  
 718 ~~probation sentence should be tolled~~ such officer shall submit the affidavit required by this  
 719 subsection to the court. If the probationer reports to his or her probation officer or private  
 720 probation officer, as the case may be, within the period prescribed in subparagraph (D)  
 721 of paragraph (1) of this subsection, such officer shall neither submit such affidavit nor  
 722 seek a tolling order."

723

**SECTION 2-18.**

724

An Act relating to the effect of a confinement sentence when guilt has not been adjudicated, approved March 20, 1985 (Ga. L. 1985, p. 380), is amended by revising Section 3 as follows:

725

726

**"SECTION 3.**

727

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval."

728

729

**SECTION 2-19.**

730

Code Section 43-1-19 of the Official Code of Georgia Annotated, relating to grounds for refusing to grant or revoking professional licenses, is amended by revising paragraph (4) of subsection (a) and subsection (q) as follows:

731

732

733

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

734

735

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

736

737

(i) A sentence for such offense was imposed pursuant to Article 3 of Chapter 8 of Title 42 or another state's first offender laws;

738

739

(ii) A sentence for such offense was imposed pursuant to subsection (a) or (c) of Code Section 16-13-2;

740

741

(iii) A sentence for such offense was imposed as a result of a plea of nolo contendere;

742

or

743

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

744

745

~~(B) An~~ The order entered pursuant to the provisions of subsection (a) or (c) of Code Section 16-13-2, Article 3 of Chapter 8 of Title 42, relating to probation of first offenders, or other or another state's first offender treatment order shall be conclusive evidence of an arrest and sentencing for such crime offense;"

746

747

748

749

"(q)(1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section or any other provision of law, and unless a felony or crime involving moral turpitude directly relates to the occupation for which the license is sought or held, no professional licensing board shall refuse to grant a license to an applicant therefor or shall revoke the license of a person an individual licensed by that board due solely or in part to a conviction such applicant's or licensee's:

750

751

752

753

754

755

(A) Conviction of any felony or any crime involving moral turpitude, whether it occurred in the courts of this state or any other state, territory, or country or in the courts of the United States; or due to any arrest, charge, and sentence

756

757

- 758 (B) Arrest, charge, and sentence for the commission of any felony such offense;  
 759 (C) Sentence for such offense pursuant to Article 3 of Chapter 8 of Title 42 or another  
 760 state's first offender laws;  
 761 (D) Sentence for such offense pursuant to subsection (a) or (c) of Code Section  
 762 16-13-2;  
 763 (E) Sentence for such offense as a result of a plea of nolo contendere; or  
 764 (F) Adjudication of guilt or sentence was otherwise withheld or not entered.  
 765 ~~unless such felony directly relates to the occupation for which the license is sought or~~  
 766 ~~held.~~  
 767 (2) In determining if a felony or crime involving moral turpitude directly relates to the  
 768 occupation for which the license is sought or held, the professional licensing board shall  
 769 consider:
- 770 (A) The nature and seriousness of ~~the~~ such felony or crime involving moral turpitude  
 771 and the relationship of ~~the~~ such felony or crime involving moral turpitude to the  
 772 occupation for which the license is sought or held;
- 773 (B) The age of the ~~person~~ individual at the time ~~the~~ such felony or crime involving  
 774 moral turpitude was committed;
- 775 (C) The length of time elapsed since ~~the~~ such felony or crime involving moral turpitude  
 776 was committed;
- 777 (D) All circumstances relative to ~~the~~ such felony or crime involving moral turpitude,  
 778 including, but not limited to, mitigating circumstances or social conditions surrounding  
 779 the commission of ~~the~~ such felony or crime involving moral turpitude; and
- 780 (E) Evidence of rehabilitation and present fitness to perform the duties of the  
 781 occupation for which the license is sought or held."

782 **PART III**  
 783 **SECTION 3-1.**

784 Chapter 2 of Title 31 of the Official Code of Georgia Annotated, relating to the Department  
 785 of Community Health, is amended by revising paragraph (1) of Code Section 31-2-1, relating  
 786 to legislative intent and grant of authority, as follows:

787 "(1) Serve as the lead planning agency for all health issues in the state to remedy the  
 788 current situation wherein the responsibility for health care policy, purchasing, planning,  
 789 and regulation is spread among many different agencies and achieve determinations of  
 790 Medicaid eligibility for inmates to attain services at long-term care facilities when he or  
 791 she is being considered for parole;"

792

**SECTION 3-2.**

793

Said chapter is further amended in Code Section 31-2-4, relating to the department's powers, duties, functions, and responsibilities, by deleting "and" at the end of division (d)(10)(B)(ii),

794  
795 by replacing the period with "; and" at the end of subparagraph (d)(11)(D), and by adding  
796 two new paragraphs to read as follows:

797

"(12) In cooperation with the Department of Corrections and the State Board of Pardons and Paroles, shall establish and implement a Medicaid eligibility determination procedure so that inmates being considered for parole who are eligible for long-term care services may apply for Medicaid; and

798

799

800

801

802

803

804

805

(13) Shall request federal approval for and facilitate the application of certificates of need for facilities capable of providing long-term care services, with Medicaid as the primary funding source, to inmates who are eligible for such services and funding upon his or her release from a public institution, as such term is defined in Code Section 49-4-31."

806

**SECTION 3-3.**

807

Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to public assistance, is amended by revising Code Section 49-4-31, relating to definitions for old-age assistance, as follows:

808

809

810

"49-4-31.

811

As used in this article, the term:

812

(1) 'Applicant' means a person who has applied for assistance under this article.

813

814

815

816

817

818

(2) 'Assistance' means money payments to, medical care in behalf of, or any type of remedial care recognized under state law in behalf of needy individuals who are 65 years of age or older but ~~does~~ shall not include any such payments to or care in behalf of any individual who is ~~an inmate of a public institution (except as a patient in a medical institution) or any individual who is~~ a patient in an institution for tuberculosis or mental health or developmental disability services.

819

820

821

822

823

(3) 'Medical institution' means an institution that is organized to provide medical, nursing, or convalescent care.

(4) 'Public institution' means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

~~(3)~~(5) 'Recipient' means a person who has received assistance under this article."

824

**SECTION 3-4.**

825

Said chapter is further amended by revising Code Section 49-4-32, relating to eligibility for assistance under this article, as follows:

826



827 "49-4-32.

828 (a) Assistance shall be granted under this article to any person who:

829 (1) Is 65 years of age or older;

830 (2) Does not have sufficient income or other resources to provide a reasonable  
831 subsistence compatible with decency and health;

832 ~~(3) Is not, at the time of receiving assistance, an inmate or patient of any public~~  
833 ~~institution, except as a patient in a medical institution. An inmate or patient of such an~~  
834 ~~institution may, however, make application for such assistance but the assistance, if~~  
835 ~~granted, shall not begin until after he ceases to be an inmate;~~

836 ~~(4) Has not made an assignment or transfer of property for the purpose of rendering~~  
837 ~~himself eligible attaining eligibility for assistance under this article at any time within two~~  
838 ~~years immediately prior to the filing of application for assistance pursuant to this article;~~

839 ~~(5)~~(4) Has been a bona fide resident of this state for not less than one year; and

840 ~~(6)~~(5) Is not receiving assistance under Article 3 of this chapter.

841 (b) No applicant shall be required to subscribe to a pauper's oath in order to be eligible for  
842 assistance under this article.

843 ~~(c) Final conviction of a crime or criminal offense and detention of one so convicted either~~  
844 ~~by this state or by any subdivision thereof shall constitute a forfeiture or suspension of all~~  
845 ~~rights to assistance under this article but only during the period of actual confinement~~  
846 Inmates of any public institution meeting the requirements of subsection (a) of this Code  
847 section may be granted assistance, provided such public institution has entered into an  
848 agreement with the Department of Community Health to determine an inmate's eligibility  
849 for assistance and services. Such agreement shall require the public institution or medical  
850 institution providing services to such inmate to provide the Department of Community  
851 Health with the required monetary payment to match the federal matching funds as set  
852 forth in federal law for the services received."

853 **SECTION 3-5.**

854 Said chapter is further amended in Code Section 49-4-51, relating to definitions for aid to the  
855 blind, by revising paragraph (2), by redesignating paragraphs (3) and (4) as paragraphs (4)  
856 and (5), respectively, and paragraphs (5) and (6) as paragraphs (7) and (8), respectively, and  
857 by adding new paragraphs to read as follows:

858 "(2) 'Assistance' means money payments to or hospital care in behalf of needy blind  
859 individuals but ~~does~~ shall not include any such payments to or care in behalf of any such  
860 individual who is ~~an inmate of a public institution (except as a patient in a medical~~  
861 ~~institution) nor any individual who:~~

- 862 (A) Is a patient in an institution for tuberculosis or mental illness or developmental  
863 disability; or
- 864 (B) Has been diagnosed as having tuberculosis or being mentally ill or  
865 developmentally disabled and is a patient in a medical institution as a result thereof.
- 866 (3) 'Medical institution' means an institution that is organized to provide medical,  
867 nursing, or convalescent care."
- 868 "(6) 'Public institution' means an institution that is the responsibility of a governmental  
869 unit or over which a governmental unit exercises administrative control."

870 **SECTION 3-6.**

871 Said chapter is further amended by revising subsection (b) of Code Section 49-4-52, relating  
872 to eligibility for assistance under this article, as follows:

873 ~~"(b) All assistance under this article shall be suspended in the event of and during the~~  
874 ~~period of confinement in any public penal institution after final conviction of a crime~~  
875 ~~against the laws of this state or any political subdivision thereof Inmates of any public~~  
876 ~~institution meeting the requirements of subsection (a) of this Code section may be granted~~  
877 ~~assistance, provided such public institution has entered into an agreement with the~~  
878 ~~Department of Community Health to determine an inmate's eligibility for assistance and~~  
879 ~~services. Such agreement shall require the public institution or medical institution~~  
880 ~~providing services to such inmate to provide the Department of Community Health with~~  
881 ~~the required monetary payment to match the federal matching funds as set forth in federal~~  
882 ~~law for the services received."~~

883 **SECTION 3-7.**

884 Said chapter is further amended in Code Section 49-4-80, relating to definitions for aid to the  
885 disabled, by revising paragraph (2), by redesignating paragraphs (3) and (4) as paragraphs  
886 (5) and (6), respectively, and by adding new paragraphs to read as follows:

887 ~~"(2) 'Assistance' means money payments to, or hospital care in behalf of, needy~~  
888 ~~individuals who are totally and permanently disabled but does not include ~~any such~~~~  
889 ~~~~payments to or care in behalf of any such individual who is an inmate of a public~~~~  
890 ~~~~institution (except as a patient in a medical institution) or any individual:~~~~

- 891 (A) Who is a patient in an institution for tuberculosis or mental illness or  
892 developmental disability; or
- 893 (B) Who has been diagnosed as having tuberculosis or being mentally ill or  
894 developmentally disabled and is a patient in a medical institution as a result thereof.
- 895 (3) 'Medical institution' means an institution that is organized to provide medical,  
896 nursing, or convalescent care.

897 (4) 'Public institution' means an institution that is the responsibility of a governmental  
 898 unit or over which a governmental unit exercises administrative control."

899 **SECTION 3-8.**

900 Said chapter is further amended in Code Section 49-4-81, relating to eligibility for assistance  
 901 under this article, by adding a new subsection to read as follows:

902 "(c) Inmates of any public institution meeting the requirements of subsection (a) of this  
 903 Code section may be granted assistance, provided such public institution has entered into  
 904 an agreement with the Department of Community Health to determine an inmate's  
 905 eligibility for assistance and services. Such agreement shall require the public institution  
 906 or medical institution providing services to such inmate to provide the Department of  
 907 Community Health with the required monetary payment to match the federal matching  
 908 funds as set forth in federal law for the services received."

909 **PART IV**

910 **SECTION 4-1.**

911 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 912 amended by revising subparagraph (a)(6)(B) of Code Section 16-8-12, relating to penalties  
 913 for theft in violation of Code Sections 16-8-2 through 16-8-9, as follows:

914 "(B) If the property which was the subject of the theft offense was a destructive device,  
 915 explosive, or firearm, by imprisonment for not less than one year nor more than ten  
 916 years; provided, however, that upon a second or subsequent conviction, by  
 917 imprisonment for not less than five nor more than ten years;"

918 **SECTION 4-2.**

919 Said title is further amended by revising Code Section 16-9-70, relating to criminal use of  
 920 an article with an altered identification mark, as follows:

921 "16-9-70.

922 (a) As used in this Code section, the term 'firearm' shall have the same meaning as set forth  
 923 in division (a)(6)(A)(iii) of Code Section 16-8-12.

924 (b) A person commits the offense of criminal use of an article with an altered identification  
 925 mark when he or she buys, sells, receives, disposes of, conceals, or has in his or her  
 926 possession a radio, piano, phonograph, sewing machine, washing machine, typewriter,  
 927 adding machine, comptometer, bicycle, firearm, safe, vacuum cleaner, dictaphone, watch,  
 928 watch movement, watch case, or any other mechanical or electrical device, appliance,  
 929 contrivance, material, vessel as defined in Code Section 52-7-3, or other piece of apparatus

930 or equipment, other than a motor vehicle as defined in Code Section 40-1-1, from which  
 931 he or she knows the manufacturer's name plate, serial number, or any other distinguishing  
 932 number or identification mark has been removed for the purpose of concealing or  
 933 destroying the identity of such article.

934 ~~(b)~~(c)(1) A person convicted of the offense of criminal use of an article, other than a  
 935 firearm, with an altered identification mark shall be guilty of a felony and upon  
 936 conviction shall be punished by imprisonment for not less than one year nor more than  
 937 five years.

938 (2) A person convicted of the offense of criminal use of a firearm with an altered  
 939 identification mark shall be guilty of a felony and upon conviction shall be punished by  
 940 imprisonment for not less than one year nor more than ten years; provided, however, that  
 941 upon a second or subsequent conviction, by imprisonment for not less than five nor more  
 942 than ten years.

943 ~~(c)~~(d) This Code section ~~does~~ shall not apply to those cases or instances ~~where~~ when any  
 944 of the changes or alterations enumerated in subsection ~~(a)~~ (b) of this Code section have  
 945 been customarily made or done as an established practice in the ordinary and regular  
 946 conduct of business by the original manufacturer or by ~~his~~ its duly appointed direct  
 947 representative or under specific authorization from the original manufacturer."

948 **SECTION 4-3.**

949 Said title is further amended by revising Code Section 16-11-113, relating to the offense of  
 950 transferring a firearm to an individual other than the actual buyer, as follows:

951 "16-11-113.

952 (a) Any person who knowingly attempts to solicit, persuade, encourage, or entice any  
 953 dealer to transfer or otherwise convey a firearm ~~other than~~ to an individual who is not the  
 954 actual buyer, to an individual who is on probation as a felony first offender pursuant to  
 955 Article 3 of Chapter 8 of Title 42, to an individual who is on probation and sentenced for  
 956 a felony under subsection (a) or (c) of Code Section 16-13-2, or to an individual who has  
 957 been convicted of a felony by a court of this state or any other state, as well as any other  
 958 person who willfully and intentionally aids or abets such person, shall be guilty of a felony  
 959 and upon conviction shall be punished by imprisonment for not less than one year nor more  
 960 than five years; provided, however, that upon a second or subsequent conviction, by  
 961 imprisonment for not less than five nor more than ten years.

962 (b) This Code section shall not apply to a federal law enforcement officer or a peace  
 963 officer, as defined in Code Section 16-1-3, in the performance of his or her official duties  
 964 or other person under such officer's direct supervision."

965 **SECTION 4-4.**

966 Said title is further amended by revising subsections (b), (b.1), and (f) of Code Section  
967 16-11-131, relating to possession of firearms by convicted felons and first offender  
968 probationers, as follows:

969 "(b) Any person who is on probation as a felony first offender pursuant to Article 3 of  
970 Chapter 8 of Title 42, who is on probation and was sentenced for a felony under subsection  
971 (a) or (c) of Code Section 16-13-2, or who has been convicted of a felony by a court of this  
972 state or any other state; by a court of the United States including its territories, possessions,  
973 and dominions; or by a court of any foreign nation and who receives, possesses, or  
974 transports any firearm commits a felony and, upon conviction thereof, shall be imprisoned  
975 for not less than one year nor more than five ten years; provided, however, that upon a  
976 second or subsequent conviction, such person shall be imprisoned for not less than five nor  
977 more than ten years; provided, further, that if the felony ~~as to~~ for which the person is on  
978 probation or has been previously convicted is a forcible felony, then upon conviction of  
979 receiving, possessing, or transporting a firearm, such person shall be imprisoned for a  
980 period of five years.

981 (b.1) Any person who is prohibited by this Code section from possessing a firearm because  
982 of conviction of a forcible felony or because of being on probation as a first offender or  
983 under conditional discharge for a forcible felony ~~pursuant to this Code section~~ and who  
984 attempts to purchase or obtain transfer of a firearm shall be guilty of a felony and upon  
985 conviction shall be punished by imprisonment for not less than one year nor more than five  
986 years; provided, however, that upon a second or subsequent conviction, such person shall  
987 be punished by imprisonment for not less than five nor more than ten years."

988 "(f) Any person ~~placed on probation~~ sentenced as a first offender pursuant to Article 3 of  
989 Chapter 8 of Title 42 or sentenced pursuant to subsection (a) or (c) of Code Section  
990 16-13-2 and subsequently discharged without court adjudication of guilt as a matter of law  
991 pursuant to Code Section 42-8-60 or 16-13-2, as applicable, shall, upon such discharge, be  
992 relieved from the disabilities imposed by this Code section."

993 **PART V**

994 **SECTION 5-1.**

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