

Senate Bill 407

By: Senators Strickland of the 17th, Walker III of the 20th, Stone of the 23rd, Miller of the 49th, Martin of the 9th and others

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, Code Section 24-4-609, Chapter 5 of Title 40, Title 42, and Code Section 43-1-19
13 of the Official Code of Georgia Annotated, relating to criminal procedure, impeachment by
14 evidence of conviction of a crime, drivers' licenses, penal institutions, and grounds for
15 refusing to grant or revoking professional licenses, respectively, so as to change provisions
16 relating to the use of citations and setting bail; to clarify matters relating to sentencing, first
17 offender treatment, pay-only probation, and the use of community service; to allow the
18 Department of Driver Services to issue certain types of licenses and permits under certain
19 conditions; to expand the types of activities and organizations that can be used by the court
20 in ordering community service and clarify provisions relating thereto; to require time frames
21 for certain actions involving probation supervision; to allow different levels of courts to
22 consider retroactive petitions for first offender sentencing; to amend an Act relating to the
23 effect of a confinement sentence when guilt has not been adjudicated, approved March 20,
24 1985 (Ga. L. 1985, p. 380), so as to repeal a contingency based upon an amendment to the
25 Constitution; to clarify the effect that a misdemeanor conviction involving moral turpitude
26 or first offender punishment will have on a professional license; to amend Chapter 2 of
27 Title 31 and Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to the
28 Department of Community Health and public assistance, respectively, so as to change

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

36 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

37 **PART I**
 38 **SECTION 1-1.**

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

41 "15-6-11.

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

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

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

51 **SECTION 1-2.**

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

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

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

76 **SECTION 1-3.**

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

79 "15-7-5.

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

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

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

89 **SECTION 1-4.**

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

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

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

100 **SECTION 1-5.**

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

104 "35-6A-2.

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

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

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

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

111 **SECTION 1-6.**

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

113 "35-6A-13.

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

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

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

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

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

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

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

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

145 35-6A-14.

146 (a) The board shall:

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

150 (2) Maintain minutes of its meetings;

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

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

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

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

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

165

PART II

166

SECTION 2-1.

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

169 "15-5-21.1.

170 The Judicial Council of Georgia shall develop a uniform misdemeanor citation and
 171 complaint form for use by all law enforcement officials who are empowered to arrest
 172 individuals for misdemeanors and local ordinance violations. Such form shall serve as the
 173 citation, summons, accusation, or other instrument of prosecution of the offense or offenses
 174 for which the accused is charged and as the record of the disposition of the matter by the
 175 court before which the accused is brought, and shall contain such other matter as the
 176 council shall provide. Each such form shall have a unique identifying number which shall
 177 serve as the docket number for the court having jurisdiction of the accused. The Judicial
 178 Council of Georgia shall promulgate rules for each class of court for the use of such
 179 citations."

180

SECTION 2-2.

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

183 "15-7-42.

184 (a) The prosecution of misdemeanors may proceed by citation, summons, arrest, citation
 185 and arrest, or accusation as provided in Code Section 17-7-71.

186 (b) All trials on the merits shall be conducted in open court and, so far as convenient, in
 187 a regular courtroom.

188 (c) All other proceedings, hearings, and acts not included in subsection (b) of this Code
 189 section may be done or conducted by a judge in chambers and in the absence of the clerk
 190 or other court officials. The judge of the court may hear motions and enter interlocutory
 191 orders, in all cases pending in the court over which he or she presides, in open court or in
 192 chambers."

193

SECTION 2-3.

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

198 "17-4-23.

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

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

225 **SECTION 2-4.**

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

229 "(b)(1) All offenses not included in subsection (a) of this Code section, inclusive of
 230 offenses that are violations of local ordinances, are bailable by a court of inquiry. Except
 231 as provided in subsection (g) of this Code section, at no time, either before a court of
 232 inquiry, when indicted or accused, after a motion for new trial is made, or while an appeal
 233 is pending, shall any person charged with a misdemeanor be refused bail. When

234 determining bail for a person charged with a misdemeanor, courts shall not impose
 235 excessive bail and shall impose the least restrictive conditions possible given the
 236 circumstances of the alleged offense."

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

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

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

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

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

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

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

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

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

251 (D) The purpose of bail; and

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

253 ~~(3) However, if~~ If the person is charged with a serious violent felony and has already
 254 been convicted of a serious violent felony, or of an offense under the laws of any other
 255 state or of the United States which offense if committed in this state would be a serious
 256 violent felony, there shall be a rebuttable presumption that no condition or combination
 257 of conditions will reasonably assure the appearance of the person as required or assure
 258 the safety of any other person or the community. As used in this subsection, the term
 259 'serious violent felony' means a serious violent felony as defined in Code Section
 260 17-10-6.1.

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

266 (2) For offenses involving an act of family violence, as defined in Code Section 19-13-1,
 267 the bail or other release from custody shall be set by a judge on an individual basis and
 268 a schedule of bails provided for in paragraph (1) of this subsection shall require increased
 269 ~~bail and shall include a listing of specific conditions which shall include, but not be~~
 270 ~~limited to, having no contact of any kind or character with the victim or any member of~~

271 ~~the victim's family or household, not physically abusing or threatening to physically~~
 272 ~~abuse the victim, the immediate enrollment in and participation in domestic violence~~
 273 ~~counseling, substance abuse therapy, or other therapeutic requirements not be utilized.~~

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

289 (4) For violations of Code Section 16-15-4, the court shall require increased bail and
 290 shall include as a condition of bail or pretrial release that the ~~defendant~~ accused shall not
 291 have contact of any kind or character with any other member or associate of a criminal
 292 street gang and, in cases involving a an alleged victim, that the ~~defendant~~ accused shall
 293 not have contact of any kind or character with any such victim or any member of any
 294 such victim's family or household.

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

298 "(i) As used in this Code section, the term 'bail' shall include ~~the~~ releasing of a person ~~on:~~

299 (1) On such person's own recognizance, except as limited by the provisions of Code
 300 Section 17-6-12; or

301 (2) Via an unsecured monetary bond signed by such person."

302 **SECTION 2-5.**

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

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

315 SECTION 2-6.

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

318 "(B) When a defendant with no prior felony conviction is convicted of felony offenses
 319 or is charged with felony offenses and is sentenced pursuant to subsection (a) or (c) of
 320 Code Section 16-13-2 or Article 3 of Chapter 8 of Title 42, ~~has no prior felony~~
 321 ~~conviction~~, and the court imposes a sentence of probation or not more than 12 months
 322 of imprisonment followed by a term of probation, ~~not to include a split sentence~~, the
 323 court shall include a behavioral incentive date in its sentencing order that does not
 324 exceed three years from the date such sentence is imposed. Within 60 days of the
 325 expiration of such incentive date, if the defendant has not been arrested for anything
 326 other than a nonserious traffic offense as defined in Code Section 35-3-37, has been
 327 compliant with the general and special conditions of probation imposed, and has paid
 328 all restitution owed, the Department of Community Supervision shall notify the
 329 prosecuting attorney and the court of such facts. The Department of Community
 330 Supervision shall provide the court with an order to terminate such defendant's
 331 probation which the court shall execute unless the court or the prosecuting attorney
 332 requests a hearing on such matter within 30 days of the receipt of such order. The court
 333 shall take whatever action it determines would be for the best interest of justice and the
 334 welfare of society."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

374 (3) In any case involving a violation of local ordinance, misdemeanor, or a felony in
 375 which the defendant has been punished in whole or in part by a fine, the sentencing judge
 376 court shall be authorized to allow the defendant to satisfy such fine through community
 377 service as defined in Code Section 42-3-50 set forth in Article 3 of Chapter 3 of Title 42.
 378 The court may also allow the defendant to satisfy the payment of statutory surcharges and

379 any fee imposed in connection with probation supervision through community service as
 380 set forth in Article 3 of Chapter 3 of Title 42. One hour of community service shall equal
 381 the dollar amount of one hour of paid labor at the minimum wage under the federal Fair
 382 Labor Standards Act of 1938, in effect on January 1, ~~2017~~ 2018, unless otherwise
 383 specified by the ~~sentencing judge~~ court. A defendant shall be required to serve the
 384 number of hours in community service which equals the number derived by dividing the
 385 amount ~~of the~~ owed by the defendant for the amount of the fine, statutory surcharge, and
 386 any fee imposed in connection with probation supervision by the federal minimum hourly
 387 wage or by the amount specified by the ~~sentencing judge~~ court. Prior to or subsequent
 388 to sentencing, a defendant, or subsequent to sentencing, a community supervision officer,
 389 may request that the court make all or any portion of a fine, statutory surcharge, or any
 390 fee imposed in connection with probation supervision be satisfied under this subsection.
 391 (4) The court shall waive, modify, or convert fines, statutory surcharges, any fee imposed
 392 in connection with probation supervision, and any other moneys assessed by the court or
 393 a provider of probation services upon a determination by the court, prior to or subsequent
 394 to sentencing, that a defendant has a significant financial hardship or inability to pay or
 395 other extenuating factors exist which prohibit payment or collection; provided, however,
 396 that the imposition of sanctions for failure to pay such sums shall be within the discretion
 397 of the court through judicial process or hearings.
 398 (5) Unless rebutted by a preponderance of the evidence that a defendant will be able to
 399 satisfy his or her financial obligations without undue hardship to the defendant or his or
 400 her dependents, a defendant shall be presumed to have a significant financial hardship if
 401 he or she:
 402 (A) Has a developmental disability;
 403 (B) Is totally and permanently disabled;
 404 (C) Is indigent; or
 405 (D) Has been released from confinement within the preceding 12 months and was
 406 incarcerated for more than 30 days before his or her release."

407 **SECTION 2-7.**

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

411 "17-10-8.

412 (a) In any a felony case where the judge may, by any law so authorizing, place on
 413 probation a person convicted of a felony, the judge may in his discretion impose a fine on
 414 the person so convicted as a condition to such probation. The fine shall when a maximum

415 statutory fine amount is not set by law, upon conviction, the court may impose a fine not
 416 to exceed \$100,000.00 or the amount of the maximum fine which may be imposed for
 417 conviction of such a felony, whichever is greater.

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

420 **SECTION 2-8.**

421 Code Section 24-6-609 of the Official Code of Georgia Annotated, relating to impeachment
 422 by evidence of conviction of a crime, is amended by revising subsection (c) as follows:

423 "(c) **Effect of pardon, annulment, certificate of rehabilitation, or ~~discharge from a~~**
 424 **first offender program treatment.** Evidence of a ~~final adjudication~~ an exoneration of
 425 guilt and subsequent discharge under any first offender statute shall not be used to impeach
 426 any witness ~~and evidence.~~ Evidence of a final adjudication of guilt wherein first offender
 427 status was retroactively granted shall not be used to impeach any witness. Evidence of a
 428 conviction shall not be admissible under this Code section if:

429 (1) The conviction has been the subject of a pardon, annulment, certificate of
 430 rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the
 431 person convicted, and that person has not been convicted of a subsequent crime which
 432 was punishable by death or imprisonment in excess of one year; or

433 (2) The conviction has been the subject of a pardon, annulment, or other equivalent
 434 procedure based on a finding of innocence."

435 **SECTION 2-9.**

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

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

445 **SECTION 2-10.**

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

449 "40-5-76.

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

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

456 (B) Issue to a defendant a limited driving permit or ignition interlock device limited
457 driving permit in accordance with the provisions using the guidance set forth in
458 subsections (c), (c.1), and (d) of Code Section 40-5-64 or with whatever conditions the
459 court determines to be appropriate under the circumstances as a reward or sanction to
460 the defendant's behavior in such court division.;

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

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

466 (2) The court shall determine what fees, if any, shall be paid to the department for such
467 reward or sanction, provided that such fee shall not be greater than the fee normally
468 imposed for such services require the defendant to pay to the department the fee normally
469 required for the reinstatement of such driver's license or issuance of such limited driving
470 permit or ignition interlock device limited driving permit or waive such fee.

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

475 (b) If the offense for which the defendant was convicted did not directly relate to the
476 operation of a motor vehicle, a A judge presiding in any court, other than the court
477 divisions specified in subsection (a) of this Code section, may order the department to
478 reinstate a defendant's driver's license that has been or should be suspended pursuant to
479 Code Section 40-5-75 or, issue to a defendant a limited driving permit or ignition interlock
480 device limited driving permit in accordance with the provisions using the guidance set forth
481 in subsections (c), (c.1), and (d) of Code Section 40-5-64 if the offense for which the
482 defendant was convicted did not directly relate to the operation of a motor vehicle, or issue
483 to a defendant an ignition interlock device limited driving permit using the guidance set
484 forth in subsections (c) and (e) of Code Section 40-5-64.1. The court shall determine what
485 fees, if any, shall be paid to the department require the defendant to pay to the department

486 the fee normally required for the reinstatement of such driver's license or issuance of such
 487 limited driving permit or ignition interlock device limited driving permit, ~~provided that~~
 488 ~~such fee shall not be greater than the fee normally imposed for such services~~ or waive such
 489 fee. Such judge may also order the department to suspend a defendant's driver's license
 490 ~~that could have been suspended pursuant to Code Section 40-5-75,~~ limited driving permit,
 491 or ignition interlock device limited driving permit as a consequence of the defendant's
 492 violation of the terms of his or her probation.

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

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

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

504 **SECTION 2-11.**

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

507 "ARTICLE 3

508 42-3-50.

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

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

514 (2) 'Community service' means uncompensated work by an offender with an agency for
 515 ~~the benefit of the community~~ pursuant to an order by a court as a condition of probation
 516 or in lieu of payment of financial obligations imposed by a court. Such term includes
 517 ~~uncompensated service by an offender who lives in the household of a disabled person~~
 518 ~~and provides aid and services to such disabled person, including, but not limited to,~~
 519 ~~cooking, housecleaning, shopping, driving, bathing, and dressing.~~

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

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

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

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

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

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

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

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

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

542 42-3-51.

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

545 (1) Eligibility;

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

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

548 (4) Provisions for supervising the offender.

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

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

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

562 42-3-52.

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

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

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

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

582 (c)(1) Any agency may recommend to the court that certain disabled persons are in need
 583 of ~~a live-in attendant~~ disabled person assistance. ~~The court shall confer with the~~
 584 ~~prosecuting attorney, the offender or his or her attorney if the offender is represented by~~
 585 ~~an attorney, a community supervision officer, a community service officer, or other~~
 586 ~~interested persons to determine if a community service program involving a disabled~~
 587 ~~person is appropriate for an offender. If community service as a live-in attendant for a~~
 588 If disabled person assistance is deemed appropriate and if both the offender and the
 589 disabled person consent to such service, the court may order ~~such live-in community~~
 590 ~~service as a condition of probation~~ disabled person assistance but for no longer than two
 591 years.

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

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

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

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

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

607 42-3-53.

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

623 42-3-54.

624 (a) ~~The provisions of~~ Article 2 of Chapter 8 of this title shall be applicable to offenders
 625 sentenced to community service, educational advancement, or disabled person assistance
 626 ~~as a condition of probation~~ pursuant to this article. ~~The provisions of~~ Article 3 of Chapter

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

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

636 **SECTION 2-12.**

637 Said title is further amended by revising paragraph (2) of subsection (d) of Code Section
 638 42-8-37, relating to the effect of termination of the probated portion of a sentence and review
 639 of cases of persons receiving probated sentences, as follows:

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

644 **SECTION 2-13.**

645 Said title is further amended by revising paragraph (1) of subsection (b) of Code Section
 646 42-8-62.1, relating to limiting public access to first offender status, petitioning, and sealing
 647 a record, as follows:

648 "(b)(1) At the time of sentencing, or during the term of a sentence that was imposed
 649 before July 1, 2016, the defendant may seek to limit public access to his or her first
 650 offender sentencing information, and the court may, in its discretion, order any of the
 651 following:

- 652 (A) Restrict dissemination of the defendant's first offender records;
- 653 (B) The criminal file, docket books, criminal minutes, final record, all other records of
 654 the court, and the defendant's criminal history record information in the custody of the
 655 clerk of court, including within any index, be sealed and unavailable to the public; and
- 656 (C) Law enforcement agencies, jails, or detention centers to restrict the defendant's
 657 criminal history record information of arrest, including any fingerprints or photographs
 658 taken in conjunction with such arrest."

659 **SECTION 2-14.**

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

663 "(a)(1) An individual who qualified for sentencing pursuant to this article but who was
 664 not informed of his or her eligibility for first offender treatment may, with the consent of
 665 the prosecuting attorney, petition the ~~superior court in the county~~ in which he or she was
 666 convicted for exoneration of guilt and discharge pursuant to this article.

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

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

673 **SECTION 2-15.**

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

676 "(b) When pay-only probation is imposed, the ~~probation supervision fees~~ total maximum
 677 fee collected shall be capped so as not to exceed three months of ordinary probation
 678 supervision fees at a monthly rate not to exceed the rate set forth in the contract between
 679 the court and the provider of services, notwithstanding the number of cases for which a fine
 680 and statutory surcharge were imposed or that the defendant was sentenced to serve
 681 consecutive sentences; provided, however, that collection of ~~any probation supervision~~
 682 such fee shall terminate as soon as all court imposed fines and statutory surcharges are paid
 683 in full; and provided, further, that when all such fines and statutory surcharges are paid in
 684 full, the probation officer or private probation officer, as the case may be, shall submit an
 685 order to the court terminating the probated sentence within 30 days of fulfillment of such
 686 conditions. ~~The~~ Within 90 days of receiving such order, the court shall ~~terminate~~ issue an
 687 order terminating such probated sentence or issue an order stating why such probated
 688 sentence shall continue."

689 **SECTION 2-16.**

690 Said title is further amended by revising paragraph (2) of subsection (b) of Code Section
 691 42-8-105, relating to a probationer's obligation to keep officer informed of certain
 692 information and tolling for failure to meet certain obligations, as follows:

693 "(2) In the event the probationer ~~reports~~ does not report to his or her probation officer or
 694 private probation officer, as the case may be, within the period prescribed in
 695 subparagraph (D) of paragraph (1) of this subsection, ~~the probationer shall be scheduled~~
 696 ~~to appear on the next available court calendar for a hearing to consider whether the~~
 697 ~~probation sentence should be tolled~~ such officer shall submit the affidavit required by this
 698 subsection to the court. If the probationer reports to his or her probation officer or private
 699 probation officer, as the case may be, within the period prescribed in subparagraph (D)
 700 of paragraph (1) of this subsection, such officer shall neither submit such affidavit nor
 701 seek a tolling order."

702 **SECTION 2-17.**

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

705 "SECTION 3.

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

708 **SECTION 2-18.**

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

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

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

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

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

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

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

724 (B) An ~~The~~ order entered pursuant to the provisions of subsection (a) or (c) of Code
 725 Section 16-13-2, Article 3 of Chapter 8 of Title 42, relating to probation of first

726 ~~offenders, or other~~ or another state's first offender treatment order shall be conclusive
 727 evidence of an arrest and sentencing for such crime offense;"

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

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

737 (B) Arrest, charge, and sentence for the commission of any felony such offense;

738 (C) Sentence for such offense pursuant to Article 3 of Chapter 8 of Title 42 or another
 739 state's first offender laws;

740 (D) Sentence for such offense pursuant to subsection (a) or (c) of Code Section
 741 16-13-2;

742 (E) Sentence for such offense as a result of a plea of nolo contendere; or

743 (F) Adjudication of guilt or sentence was otherwise withheld or not entered.

744 ~~unless such felony directly relates to the occupation for which the license is sought or~~
 745 ~~held.~~

746 (2) In determining if a felony or crime involving moral turpitude directly relates to the
 747 occupation for which the license is sought or held, the professional licensing board shall
 748 consider:

749 (A) The nature and seriousness of ~~the~~ such felony or crime involving moral turpitude
 750 and the relationship of ~~the~~ such felony or crime involving moral turpitude to the
 751 occupation for which the license is sought or held;

752 (B) The age of the ~~person~~ individual at the time ~~the~~ such felony or crime involving
 753 moral turpitude was committed;

754 (C) The length of time elapsed since ~~the~~ such felony or crime involving moral turpitude
 755 was committed;

756 (D) All circumstances relative to ~~the~~ such felony or crime involving moral turpitude,
 757 including, but not limited to, mitigating circumstances or social conditions surrounding
 758 the commission of ~~the~~ such felony or crime involving moral turpitude; and

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

761

PART III

762

SECTION 3-1.

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

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

771

SECTION 3-2.

772 Said chapter is further amended in Code Section 31-2-4, relating to the department's powers,
773 duties, functions, and responsibilities, by deleting "and" at the end of division (d)(10)(B)(ii),
774 by replacing the period with "; and" at the end of subparagraph (d)(11)(D), and by adding
775 two new paragraphs to read as follows:

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

780 (13) Shall request federal approval for and facilitate the application of certificates of
781 need for facilities capable of providing long-term care services, with Medicaid as the
782 primary funding source, to inmates who are eligible for such services and funding upon
783 his or her release from a public institution, as such term is defined in Code Section
784 49-4-31."

785

SECTION 3-3.

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

789 "49-4-31.

790 As used in this article, the term:

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

792 (2) 'Assistance' means money payments to, medical care in behalf of, or any type of
793 remedial care recognized under state law in behalf of needy individuals who are 65 years
794 of age or older but ~~does~~ shall not include any such payments to or care in behalf of any

795 individual who is ~~an inmate of a public institution (except as a patient in a medical~~
 796 ~~institution) or any individual who is a patient in an institution for tuberculosis or mental~~
 797 health or developmental disability services.

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

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

802 ~~(3)~~(5) 'Recipient' means a person who has received assistance under this article."

803 **SECTION 3-4.**

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

806 "49-4-32.

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

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

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

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

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

818 ~~(5)~~(4) Has been a bona fide resident of this state for not less than one year; and

819 ~~(6)~~(5) Is not receiving assistance under Article 3 of this chapter.

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

822 ~~(c) Final conviction of a crime or criminal offense and detention of one so convicted either~~
 823 ~~by this state or by any subdivision thereof shall constitute a forfeiture or suspension of all~~
 824 ~~rights to assistance under this article but only during the period of actual confinement~~

825 Inmates of any public institution meeting the requirements of subsection (a) of this Code
 826 section may be granted assistance, provided such public institution has entered into an
 827 agreement with the Department of Community Health to determine an inmate's eligibility
 828 for assistance and services. Such agreement shall require the public institution or medical
 829 institution providing services to such inmate to provide the Department of Community

830 Health with the required monetary payment to match the federal matching funds as set
 831 forth in federal law for the services received."

832 **SECTION 3-5.**

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

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

841 (A) Is a patient in an institution for tuberculosis or mental illness or developmental
 842 disability; or

843 (B) Has been diagnosed as having tuberculosis or being mentally ill or
 844 developmentally disabled and is a patient in a medical institution as a result thereof.

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

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

849 **SECTION 3-6.**

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

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

862 **SECTION 3-7.**

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

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

870 (A) Who is a patient in an institution for tuberculosis or mental illness or
 871 developmental disability; or

872 (B) Who has been diagnosed as having tuberculosis or being mentally ill or
 873 developmentally disabled and is a patient in a medical institution as a result thereof.

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

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

878 **SECTION 3-8.**

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

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

888 **PART IV**889 **SECTION 4-1.**

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

893 "(B) If the property which was the subject of the theft offense was a destructive device,
 894 explosive, or firearm, by imprisonment for not less than one year nor more than ten

895 years; provided, however, that upon a second or subsequent conviction, by
 896 imprisonment for not less than five nor more than ten years."

897 **SECTION 4-2.**

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

900 "16-9-70.

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

903 (b) A person commits the offense of criminal use of an article with an altered identification
 904 mark when he or she buys, sells, receives, disposes of, conceals, or has in his or her
 905 possession a radio, piano, phonograph, sewing machine, washing machine, typewriter,
 906 adding machine, comptometer, bicycle, firearm, safe, vacuum cleaner, dictaphone, watch,
 907 watch movement, watch case, or any other mechanical or electrical device, appliance,
 908 contrivance, material, vessel as defined in Code Section 52-7-3, or other piece of apparatus
 909 or equipment, other than a motor vehicle as defined in Code Section 40-1-1, from which
 910 he or she knows the manufacturer's name plate, serial number, or any other distinguishing
 911 number or identification mark has been removed for the purpose of concealing or
 912 destroying the identity of such article.

913 ~~(b)~~(c) A person convicted of the offense of criminal use of an article with an altered
 914 identification mark shall be guilty of a felony and upon conviction shall be punished by
 915 imprisonment for not less than one year nor more than five years; provided, however, that
 916 upon a second or subsequent conviction, by imprisonment for not less than five nor more
 917 than ten years.

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

923 **SECTION 4-3.**

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

926 "16-11-113.

927 (a) Any person who knowingly attempts to solicit, persuade, encourage, or entice any
 928 dealer to transfer or otherwise convey a firearm ~~other than~~ to an individual who is not the
 929 actual buyer, to an individual who is on probation as a felony first offender pursuant to

930 Article 3 of Chapter 8 of Title 42, to an individual who is on probation and sentenced for
 931 a felony under subsection (a) or (c) of Code Section 16-13-2, or to an individual who has
 932 been convicted of a felony by a court of this state or any other state, as well as any other
 933 person who willfully and intentionally aids or abets such person, shall be guilty of a felony
 934 and upon conviction shall be punished by imprisonment for not less than one year nor more
 935 than five years; provided, however, that upon a second or subsequent conviction, by
 936 imprisonment for not less than five nor more than ten years.

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

940 SECTION 4-4.

941 Said title is further amended by revising subsections (b), (b.1), and (f) of Code Section
 942 16-11-131, relating to possession of firearms by convicted felons and first offender
 943 probationers, as follows:

944 "(b) Any person who is on probation as a felony first offender pursuant to Article 3 of
 945 Chapter 8 of Title 42, who is on probation and was sentenced for a felony under subsection
 946 (a) or (c) of Code Section 16-13-2, or who has been convicted of a felony by a court of this
 947 state or any other state; by a court of the United States including its territories, possessions,
 948 and dominions; or by a court of any foreign nation and who receives, possesses, or
 949 transports any firearm commits a felony and, upon conviction thereof, shall be imprisoned
 950 for not less than one year nor more than five ten years; provided, however, that upon a
 951 second or subsequent conviction, such person shall be imprisoned for not less than five nor
 952 more than ten years; provided, further, that if the felony as to for which the person is on
 953 probation or has been previously convicted is a forcible felony, then upon conviction of
 954 receiving, possessing, or transporting a firearm, such person shall be imprisoned for a
 955 period of five years.

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

963 "(f) Any person placed on probation sentenced as a first offender pursuant to Article 3 of
 964 Chapter 8 of Title 42 or sentenced pursuant to subsection (a) or (c) of Code Section
 965 16-13-2 and subsequently discharged without court adjudication of guilt as a matter of law

966 pursuant to Code Section 42-8-60 or 16-13-2, as applicable, shall, upon such discharge, be
967 relieved from the disabilities imposed by this Code section."

968

PART V

969

SECTION 5-1.

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