

The House Committee on Judiciary Non-Civil offers 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 require certain court filings to be filed electronically and in writing; to provide for
 11 exceptions; to change provisions relating to electronic filings and payments; to provide for
 12 fees; to provide for a definition; to provide for policies and procedures; to amend Code
 13 Section 9-11-5 and Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating
 14 to service and filing of pleadings subsequent to the original complaint and other papers and
 15 general provisions relating to courts, respectively, so as to change provisions relating to the
 16 electronic service of pleadings; to provide for contracts with electronic filing service
 17 providers; to provide for the Judicial Council of Georgia to develop a misdemeanor citation
 18 form; to allow misdemeanors to be prosecuted in state courts by use of citation; to amend
 19 Title 17, Code Section 35-3-37, Chapter 5 of Title 40, Title 42, and Code Section 43-1-19
 20 of the Official Code of Georgia Annotated, relating to criminal procedure, review of an
 21 individual's criminal history record information, drivers' licenses, penal institutions, and
 22 grounds for refusing to grant or revoking professional licenses, respectively, so as to change
 23 provisions relating to the use of citations and setting bail; to clarify matters relating to
 24 sentencing, record restriction, first offender treatment, pay-only probation, and the use of
 25 community service; to allow the Department of Driver Services to issue certain types of
 26 licenses and permits under certain conditions; to expand the types of activities and
 27 organizations that can be used by the court in ordering community service and clarify
 28 provisions relating thereto; to require time frames for certain actions involving probation

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29 supervision; to allow different levels of courts to consider retroactive petitions for first
 30 offender sentencing; to amend an Act relating to the effect of a confinement sentence when
 31 guilt has not been adjudicated, approved March 20, 1985 (Ga. L. 1985, p. 380), so as to
 32 repeal a contingency based upon an amendment to the Constitution; to clarify the effect that
 33 a misdemeanor conviction involving moral turpitude or first offender punishment will have
 34 on a professional license; to amend Chapter 2 of Title 31 and Chapter 4 of Title 49 of the
 35 Official Code of Georgia Annotated, relating to the Department of Community Health and
 36 public assistance, respectively, so as to change provisions relating to the department's duties
 37 and responsibilities; to change provisions relating to providing assistance to inmates who are
 38 eligible for Medicaid; to amend Title 16 of the Official Code of Georgia Annotated, relating
 39 to crimes and offenses, so as to increase certain penalties relating to the theft of, the use of
 40 an altered identification mark on, or the transfer to certain individuals of a firearm; to change
 41 provisions relating to possession of firearms by convicted felons and first offender
 42 probationers; to change provisions relating to authorizing the release of information from the
 43 prescription drug monitoring program data base; to amend Article 2 of Chapter 4 of Title 20
 44 and Chapter 8 of Title 20 of the Official Code of Georgia Annotated, relating to technical and
 45 adult education and to campus policemen, respectively, so as to revise the powers of arrest
 46 of campus policemen who are regular employees of the Technical College System of
 47 Georgia; to amend Chapter 69 of Title 36 of the Official Code of Georgia Annotated, relating
 48 to mutual aid regarding local government, so as to permit campus policemen of the Technical
 49 College System of Georgia to render mutual aid under certain conditions; to provide for the
 50 public safety director or chief of police of any institution within the Technical College
 51 System of Georgia to enter into mutual aid agreements with local governments under certain
 52 conditions; to repeal conflicting laws; and for other purposes.

53 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

54 **PART I**
 55 **SECTION 1-1.**

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

58 "15-6-11.

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

63 (b)(1) On and after July 1, 2018, except as provided in paragraph (3) of this subsection,
 64 all pleadings and any other document related thereto filed by an attorney to initiate a civil
 65 action or in a civil case in a superior court shall be filed by electronic means through the
 66 court's electronic filing service provider. Except as provided in paragraph (3) of this
 67 subsection, once a court has commenced mandatory electronic filings in civil cases, a
 68 clerk shall not accept, file, or docket any pleading or any other form of paper document
 69 related thereto from an attorney in a civil case.

70 (2)(A) A court's electronic filing service provider may charge a fee which shall be a
 71 recoverable court cost and only include a:

72 (i) One-time fee for electronically filing pleadings or documents in a civil action and
 73 the electronic service of pleadings, regardless of how many parties shall be served,
 74 which shall not exceed \$30.00 per filer, per party. Such fee shall be paid at the time
 75 of the first filing on behalf of a party; provided that when filings are submitted via a
 76 public access terminal, upon the first filing not using such terminal, such fee shall be
 77 paid; and

78 (ii) Convenience fee for credit card and bank drafting services, which shall not
 79 exceed 3.5 percent plus 30¢ per transaction.

80 (B) With respect to the fee charged pursuant to division (i) of subparagraph (A) of this
 81 paragraph, the clerk of superior court shall retain \$2.00 of the transaction fee and remit
 82 it to the governing authority of the county. No other portion of the transaction fee shall
 83 be remitted to any other office or entity of the state or governing authority of a county
 84 or municipality.

85 (C) An attorney, or party if he or she is pro se, shall be allowed unlimited access to
 86 view and download any pleading or document electronically filed in connection to the
 87 civil action in which he or she is counsel of record or pro se litigant, and an electronic
 88 service provider shall not be authorized to charge or collect a fee for such viewing or
 89 downloading.

90 (3) This subsection shall not apply to filings:

91 (A) In connection with a pauper's affidavit, any validation of bonds as otherwise
 92 provided for by law, pleadings or documents filed under seal or presented to a court in
 93 camera or ex parte, or pleadings or documents to which access is otherwise restricted
 94 by law or court order;

95 (B) Made physically at the courthouse by an attorney or his or her designee or an
 96 individual who is not an attorney; provided, however, that the clerk shall require such
 97 pleadings or documents be submitted via a public access terminal in the clerk's office.
 98 The clerk shall not charge the fee as set forth in division (2)(A)(i) of this subsection for

99 such filing but when payment is submitted by credit card or bank draft, the clerk may
 100 charge the convenience fee as set forth in division (2)(A)(ii) of this subsection; or
 101 (C) Made in a court located in an area that has been declared to be in a state of
 102 emergency pursuant to Article 3 of Chapter 3 of Title 38. The Judicial Council of
 103 Georgia shall provide rules for filings in such circumstances.

104 (4) The Judicial Council of Georgia shall make and publish in print or electronically such
 105 statewide minimum standards and rules as it deems necessary to carry out this Code
 106 section. Each clerk of superior court shall develop and enact policies and procedures
 107 necessary to carry out the standards and rules created by the Judicial Council of Georgia.

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

110 (d) A superior court judge to whom the case is assigned and his or her staff shall, at all
 111 times, have access to all pleadings and documents electronically filed ~~and such access shall~~
 112 ~~be provided upon the physical acceptance of such pleadings and documents by the clerk.~~

113 (e) Any pleading or document filed electronically shall be deemed filed as of the time of
 114 its receipt by the electronic filing service provider. ~~A pleading or document filed~~
 115 ~~electronically shall not be subject to disclosure until it has been physically accepted by the~~
 116 ~~clerk. Upon such acceptance as provided for in this subsection,~~ such pleading or document
 117 shall be publicly accessible for viewing at no cost to the viewer on a public access terminal
 118 available at the courthouse during regular business hours."

119 SECTION 1-2.

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

123 "(B) An automated criminal case management system which shall contain a summary
 124 record of all criminal indictments in which true bills are rendered and all criminal
 125 accusations filed in the office of clerk of superior court in accordance with rules
 126 promulgated by the Criminal Case Data Exchange Board. The criminal case
 127 management system shall contain entries of other matters of a criminal nature filed with
 128 the clerk, including quasi-civil proceedings and entries of cases which are ordered dead
 129 docketed ~~at the discretion of the presiding judge and which shall be called only at the~~
 130 ~~judge's pleasure.~~ When a case is ~~thus~~ dead docketed, all witnesses who may have been
 131 subpoenaed therein shall be released from further attendance until resubpoenaed; and"

132 "(18) To electronically collect ~~and transmit to the Georgia Superior Court Clerks'~~
 133 ~~Cooperative Authority~~ all data elements required in subsection (g) of Code Section
 134 35-3-36, and such clerk of superior court may transmit such data to the Georgia Superior

135 Court Clerks' Cooperative Authority in a form and format required by ~~the Superior Court~~
 136 ~~Clerks' Cooperative Authority~~ such authority and The Council of Superior Court Clerks
 137 of Georgia. ~~The~~ Any data transmitted to the authority pursuant to this paragraph shall be
 138 transmitted to the Georgia Crime Information Center in satisfaction of the clerk's duties
 139 under subsection (g) of Code Section 35-3-36 and to the Georgia Courts Automation
 140 Commission which shall provide the data to the Administrative Office of the Courts for
 141 use by the state judicial branch. Public access to said data shall remain the responsibility
 142 of the Georgia Crime Information Center. No release of collected data shall be made by
 143 or through the authority;"

144 **SECTION 1-3.**

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

147 "15-7-5.

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

152 (b)(1) On and after July 1, 2018, except as provided in paragraph (3) of this subsection,
 153 all pleadings and any other document related thereto filed by an attorney to initiate a civil
 154 action or in a civil case in a state court shall be filed by electronic means through the
 155 court's electronic filing service provider. Except as provided in paragraph (3) of this
 156 subsection, once a court has commenced mandatory electronic filings in civil cases, a
 157 clerk shall not accept, file, or docket any pleading or any other form of paper document
 158 related thereto from an attorney in a civil case.

159 (2)(A) A court's electronic filing service provider may charge a fee which shall be a
 160 recoverable court cost and only include a:

161 (i) One-time fee for electronically filing pleadings or documents in a civil action and
 162 the electronic service of pleadings, regardless of how many parties shall be served,
 163 which shall not exceed \$30.00 per filer, per party. Such fee shall be paid at the time
 164 of the first filing on behalf of a party; provided that when filings are submitted via a
 165 public access terminal, upon the first filing not using such terminal, such fee shall be
 166 paid; and

167 (ii) Convenience fee for credit card and bank drafting services, which shall not
 168 exceed 3.5 percent plus 30¢ per transaction.

169 (B) With respect to the fee charged pursuant to division (i) of subparagraph (A) of this
 170 paragraph, the clerk of superior court shall retain \$2.00 of the transaction fee and remit

171 it to the governing authority of the county. No other portion of the transaction fee shall
 172 be remitted to any other office or entity of the state or governing authority of a county
 173 or municipality.

174 (C) An attorney, or party if he or she is pro se, shall be allowed unlimited access to
 175 view and download any pleading or document electronically filed in connection to the
 176 civil action in which he or she is counsel of record or pro se litigant, and an electronic
 177 service provider shall not be authorized to charge or collect a fee for such viewing or
 178 downloading.

179 (3) This subsection shall not apply to filings:

180 (A) In connection with a pauper's affidavit, pleadings or documents filed under seal or
 181 presented to a court in camera or ex parte, or pleadings or documents to which access
 182 is otherwise restricted by law or court order;

183 (B) Made physically at the courthouse by an attorney or his or her designee or an
 184 individual who is not an attorney; provided, however, that the clerk shall require such
 185 pleadings or documents be submitted via a public access terminal in the clerk's office.

186 The clerk shall not charge the fee as set forth in division (2)(A)(i) of this subsection for
 187 such filing but when payment is submitted by credit card or bank draft, the clerk may
 188 charge the convenience fee as set forth in division (2)(A)(ii) of this subsection; or

189 (C) Made in a court located in an area that has been declared to be in a state of
 190 emergency pursuant to Article 3 of Chapter 3 of Title 38. The Judicial Council of
 191 Georgia shall provide rules for filings in such circumstances.

192 (4) The Judicial Council of Georgia shall make and publish in print or electronically such
 193 statewide minimum standards and rules as it deems necessary to carry out this Code
 194 section. Each clerk of state court shall develop and enact policies and procedures
 195 necessary to carry out the standards and rules created by the Judicial Council of Georgia.

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

198 (d) A state court judge to whom the case is assigned and his or her staff shall, at all times,
 199 have access to all pleadings and documents electronically filed ~~and such access shall be~~
 200 ~~provided upon the physical acceptance of such pleadings and documents by the clerk.~~

201 (e) Any pleading or document filed electronically shall be deemed filed as of the time of
 202 its receipt by the electronic filing service provider. ~~A pleading or document filed~~
 203 ~~electronically shall not be subject to disclosure until it has been physically accepted by the~~
 204 ~~clerk. Upon such acceptance as provided for in this subsection, such pleading or document~~
 205 shall be publicly accessible for viewing at no cost to the viewer on a public access terminal
 206 available at the courthouse during regular business hours."

207 **SECTION 1-4.**

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

211 "(c) Pursuant to rules promulgated by the Judicial Council of Georgia, on and after
212 January 1, 2019, each clerk of the juvenile court shall collect data on each child alleged or
213 adjudicated to be a delinquent child and transmit such data as required by such rules. The
214 Judicial Council of Georgia shall make and publish in print or electronically such
215 state-wide minimum standards and rules as it deems necessary to carry out this subsection.
216 Each clerk of the juvenile court shall develop and enact policies and procedures necessary
217 to carry out the standards and rules created by the Judicial Council of Georgia."

218 **SECTION 1-5.**

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

222 "35-6A-2.

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

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

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

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

229 **SECTION 1-6.**

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

231 "35-6A-13.

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

234 (1) The director of the council, the director of the Georgia Crime Information Center, the
235 director of the Office of Planning and Budget, the director of the Administrative Office
236 of the Courts, the director of the Georgia Public Defender Council, the commissioner of
237 administrative services, the commissioner of corrections, the commissioner of community
238 supervision, the executive director of the Georgia Technology Authority, the executive
239 counsel of the Governor, and a representative of the Prosecuting Attorneys' Council of
240 the State of Georgia, provided that any such member may allow a designee to represent
241 him or her at a board meeting and vote in his or her stead; and

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

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

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

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

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

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

263 35-6A-14.

264 (a) The board shall:

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

268 (2) Maintain minutes of its meetings;

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

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

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

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

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

283 **PART IA**

284 **SECTION 1A-1.**

285 Code Section 9-11-5 of the Official Code of Georgia Annotated, relating to service and filing
 286 of pleadings subsequent to the original complaint and other papers, is amended by revising
 287 paragraph (4) of subsection (f) as follows:

288 "(4) When an attorney files a pleading in a case via an electronic filing service provider,
 289 such attorney shall be deemed to have consented to be served electronically with future
 290 pleadings for such case unless he or she files a rescission of consent as set forth in
 291 paragraph (2) of this subsection.

292 ~~(4)~~(5) If electronic service of a pleading is made upon a person to be served, and such
 293 person certifies to the court under oath that he or she did not receive such pleading, it
 294 shall be presumed that such pleading was not received unless the serving party disputes
 295 the assertion of nonservice, in which case the court shall decide the issue of service of
 296 such pleading."

297 **SECTION 1A-2.**

298 Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general
 299 provisions relative to courts, is amended by adding a new Code section to read as follows:

300 "15-1-22.
 301 No court or clerk of court shall enter into any exclusive agreement or contract that prohibits
 302 more than one electronic filing service provider to serve a court or clerk of court; provided,
 303 however, that such prohibition shall not require a court or clerk of court to enter into more
 304 than one agreement or contract with an electronic service provider."

305 **PART II**

306 **SECTION 2-1.**

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

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309 "15-5-21.1.
 310 The Judicial Council of Georgia shall develop a uniform misdemeanor citation and
 311 complaint form for use by all law enforcement officials who are empowered to arrest
 312 individuals for misdemeanors and local ordinance violations. Such form shall serve as the
 313 citation, summons, accusation, or other instrument of prosecution of the offense or offenses
 314 for which the accused is charged and as the record of the disposition of the matter by the
 315 court before which the accused is brought, and shall contain such other matter as the
 316 council shall provide. Each such form shall have a unique identifying number which shall
 317 serve as the docket number for the court having jurisdiction of the accused. The Judicial
 318 Council of Georgia shall promulgate rules for each class of court for the use of such
 319 citations."

320 **SECTION 2-2.**

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

323 "15-7-42.

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

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

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

333 **SECTION 2-3.**

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

338 "17-4-23.

339 (a)(1) A law enforcement officer may arrest a person accused of violating any law or
 340 ordinance enacted by local law governing the operation, licensing, registration,
 341 maintenance, or inspection of motor vehicles or violating paragraph (2), (3), or (5) of
 342 subsection (a) of Code Section 3-3-23 by the issuance of a citation, provided that the such
 343 offense is committed in his or her presence or information constituting a basis for such

344 ~~arrest concerning the operation of a motor vehicle or a violation of paragraph (2), (3), or~~
345 ~~(5) of subsection (a) of Code Section 3-3-23~~ was received by the arresting officer from
346 a law enforcement officer observing the such offense being committed, except that, ~~where~~
347 ~~the~~ when such offense results in an accident, an investigating officer may issue citations
348 regardless of whether the offense occurred in the presence of a law enforcement officer.
349 (2) A law enforcement officer may arrest a person accused of any misdemeanor violation
350 of Code Section 16-7-21, 16-8-14, 16-8-14.1, or 16-13-30 by the issuance of a citation,
351 provided that such offense is committed in his or her presence or information constituting
352 a basis for such arrest was received by the arresting officer or an investigating officer
353 from another law enforcement officer or other individual observing or aware of such
354 offense being committed. When an arrest is made for such offense, prior to releasing the
355 accused on citation, the arresting law enforcement officer shall review the accused's
356 criminal record as such is on file with the Federal Bureau of Investigation and the
357 Georgia Crime Information Center within the Georgia Bureau of Investigation and ensure
358 that the accused's fingerprints are obtained.

359 (3) The arresting officer shall issue to such person a citation to the accused which shall
360 enumerate the specific charges ~~against the person~~ and the date upon which ~~the person~~ he
361 or she is to appear and answer the charges or a notation that ~~the person~~ he or she will be
362 later notified of the date upon which ~~the person~~ he or she is to appear and answer the
363 charges. ~~Whenever~~ When an arresting officer makes an arrest concerning the operation
364 of a motor vehicle based on information received from another law enforcement officer
365 who observed the offense being committed, the citation shall list the name of each officer
366 and each officer must be present when the charges against the accused ~~person~~ are heard.

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

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

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

382 **SECTION 2-4.**

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

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

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

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

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

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

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

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

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

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

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

409 (D) The purpose of bail; and

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

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

415 of conditions will reasonably assure the appearance of the person as required or assure
 416 the safety of any other person or the community. As used in this subsection, the term
 417 'serious violent felony' means a serious violent felony as defined in Code Section
 418 17-10-6.1.

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

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

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

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

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

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

457 "(i) As used in this Code section, the term 'bail' shall include ~~the~~ releasing of a person on
458 such person's own recognizance, except as limited by ~~the provisions of~~ Code Section
459 17-6-12."

460 **SECTION 2-5.**

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

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

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

477 **SECTION 2-6.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

536 (3) In any case involving a violation of local ordinance, misdemeanor, or a felony in
 537 which the defendant has been punished in whole or in part by a fine, the sentencing judge
 538 court shall be authorized to allow the defendant to satisfy such fine through community
 539 service as defined in Code Section 42-3-50 or any fee imposed in connection with
 540 probation supervision through community service as set forth in Article 3 of Chapter 3
 541 of Title 42. One hour of community service shall equal the dollar amount of one hour of
 542 paid labor at the minimum wage under the federal Fair Labor Standards Act of 1938, in
 543 effect on January 1, 2017 2018, unless otherwise specified by the sentencing judge court.

544 A defendant shall be required to serve the number of hours in community service which
 545 equals the number derived by dividing the amount of the fine owed by the defendant for
 546 the fine, statutory surcharge, and any fee imposed in connection with probation
 547 supervision by the federal minimum hourly wage or by the amount specified by the
 548 sentencing judge court. If the court orders educational advancement, the court shall
 549 determine the numbers of hours required to be completed. Prior to or subsequent to
 550 sentencing, a defendant, or subsequent to sentencing, a community supervision officer,
 551 may request that the court make all or any portion of a fine, statutory surcharge, or any
 552 fee imposed in connection with probation supervision be satisfied under this subsection.

553 (4) The court may waive, modify, or convert fines, any fee imposed in connection with
 554 probation supervision, and any other moneys assessed by a provider of probation services
 555 or the court, other than statutory surcharges, upon a determination by the court, prior to
 556 or subsequent to sentencing, that a defendant has a significant financial hardship or
 557 inability to pay or other extenuating factors exist which prohibit payment or collection;
 558 provided, however, that the imposition of sanctions for failure to pay such sums shall be

559 within the discretion of the court through judicial process or hearings. When determining
 560 significant financial hardship, the court may consider whether the defendant is indigent
 561 and whether the defendant or his or her dependents has a developmental disability or is
 562 totally and permanently disabled. If the court waives a fine under this paragraph, it shall
 563 impose a theoretical fine and the defendant shall be required to pay the statutory
 564 surcharges associated therewith."

565 **SECTION 2-7.**

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

569 "17-10-8.

570 (a) In any a felony case where the judge may, by any law so authorizing, place on
 571 probation a person convicted of a felony, the judge may in his discretion impose a fine on
 572 the person so convicted as a condition to such probation. The fine shall, when a statutory
 573 fine amount is not set by law, upon conviction, the court may impose a fine not to exceed
 574 \$100,000.00 or the amount of the maximum fine which may be imposed for conviction of
 575 such a felony, whichever is greater.

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

578 **SECTION 2-8.**

579 Code Section 35-3-37 of the Official Code of Georgia Annotated, relating to review of
 580 individual's criminal history record information, definitions, privacy considerations, written
 581 application requesting review, and inspection, is amended by revising paragraphs (1) through
 582 (3) of subsection (j) and subparagraph (j)(4)(A), as follows:

583 "(j)(1) When an individual had a felony charge dismissed or nolle prossed or was found
 584 not guilty of such charge but was convicted of a misdemeanor offense that was not a
 585 lesser included offense of the felony charge, such individual may petition the court in
 586 which he or she was accused or convicted, as applicable, or, if such charge was
 587 dismissed, the superior court in the county where the arrest occurred to restrict access to
 588 criminal history record information for the felony charge within four years of the arrest.
 589 Such court shall maintain jurisdiction over the case for this limited purpose and duration.
 590 Such petition shall be served on the arresting law enforcement agency and the
 591 prosecuting attorney. If a hearing is requested, such hearing shall be held within 90 days
 592 of the filing of the petition. The court shall hear evidence and shall grant an order
 593 restricting such criminal history record information if the court determines that the

594 misdemeanor conviction was not a lesser included offense of the felony charge and that
 595 the harm otherwise resulting to the individual clearly outweighs the public interest in the
 596 criminal history record information being publicly available.

597 (2) When an individual was convicted of an offense and was sentenced to punishment
 598 other than the death penalty, but such conviction was vacated by the trial court or
 599 reversed by an appellate court or other post-conviction court, the decision of which has
 600 become final by the completion of the appellate process, and the prosecuting attorney has
 601 not retried the case within two years of the date the order vacating or reversing the
 602 conviction became final, such individual may petition the ~~superior~~ court in ~~the county~~
 603 ~~where the conviction occurred~~ which he or she was convicted to restrict access to
 604 criminal history record information for such offense. Such court shall maintain
 605 jurisdiction over the case for this limited purpose and duration. Such petition shall be
 606 served on the prosecuting attorney. If a hearing is requested, such hearing shall be held
 607 within 90 days of the filing of the petition. The court shall hear evidence and shall
 608 determine whether granting an order restricting such criminal history record information
 609 is appropriate, giving due consideration to the reason the judgment was reversed or
 610 vacated, the reason the prosecuting attorney has not retried the case, and the public's
 611 interest in the criminal history record information being publicly available.

612 (3) When an individual's case has remained on the dead docket for more than 12 months,
 613 such individual may petition the ~~superior~~ court in ~~the county where~~ which the case is
 614 pending to restrict access to criminal history record information for such offense. Such
 615 petition shall be served on the prosecuting attorney. If a hearing is requested, such
 616 hearing shall be held within 90 days of the filing of the petition. The court shall hear
 617 evidence and shall determine whether granting an order restricting such criminal history
 618 record information is appropriate, giving due consideration to the reason the case was
 619 placed on the dead docket; provided, however, that the court shall not grant such motion
 620 if an active warrant is pending for such individual.

621 (4)(A) When an individual was convicted in this state of a misdemeanor or a series of
 622 misdemeanors arising from a single incident, and at the time of such conviction such
 623 individual was a youthful offender, provided that such individual successfully
 624 completed the terms of his or her sentence and, since completing the terms of his or her
 625 sentence, has not been arrested for at least five years, excluding any arrest for a
 626 nonserious traffic offense, and provided, further, that he or she was not convicted in this
 627 state of a misdemeanor violation or under any other state's law with similar provisions
 628 of one or more of the offenses listed in subparagraph (B) of this paragraph, he or she
 629 may petition the ~~superior~~ court in ~~the county where~~ which the conviction occurred to
 630 restrict access to criminal history record information. Such court shall maintain

631 jurisdiction over the case for this limited purpose and duration. Such petition shall be
 632 served on the prosecuting attorney. If a hearing is requested, such hearing shall be held
 633 within 90 days of the filing of the petition. The court shall hear evidence and shall
 634 determine whether granting an order restricting such criminal history record
 635 information is appropriate, giving due consideration to the individual's conduct and the
 636 public's interest in the criminal history record information being publicly available."

637 SECTION 2-9.

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

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

647 SECTION 2-10.

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

651 "40-5-76.

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

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

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

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

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

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

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

677 (b) If the offense for which the defendant was convicted did not directly relate to the
 678 operation of a motor vehicle, a ~~A~~ judge presiding in any court, other than the court
 679 divisions specified in subsection (a) of this Code section, may order the department to
 680 reinstate a defendant's driver's license that has been or should be suspended pursuant to
 681 ~~Code Section 40-5-75 or,~~ issue to a defendant a limited driving permit or ignition interlock
 682 device limited driving permit in accordance with the provisions using the guidance set forth
 683 in subsections (c), (c.1), and (d) of Code Section 40-5-64 if the offense for which the
 684 defendant was convicted did not directly relate to the operation of a motor vehicle, or issue
 685 to a defendant an ignition interlock device limited driving permit using the guidance set
 686 forth in subsections (c) and (e) of Code Section 40-5-64.1. The court shall determine what
 687 fees, if any, shall be paid to the department require the defendant to pay to the department
 688 the fee normally required for the reinstatement of such driver's license or issuance of such
 689 limited driving permit or ignition interlock device limited driving permit, provided that
 690 such fee shall not be greater than the fee normally imposed for such services or waive such
 691 fee. Such judge may also order the department to suspend a defendant's driver's license
 692 ~~that could have been suspended pursuant to Code Section 40-5-75,~~ limited driving permit,
 693 or ignition interlock device limited driving permit as a consequence of the defendant's
 694 violation of the terms of his or her probation.

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

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

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

706 **SECTION 2-11.**

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

709 "ARTICLE 3

710 42-3-50.

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

712 (1) 'Agency' means any private or public ~~agency or organization approved by the court~~
 713 ~~to participate in a community service program~~ entity or organization that provides
 714 services to the public and enhances the social welfare and general well-being of the
 715 community. Such term may include educational institutions and religious organizations
 716 that are nonprofit corporations or are qualified as tax exempt under 26 U.S.C.
 717 Section 501(c)(3), as it existed on March 1, 2018.

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

724 (3) 'Community service officer' means an individual appointed by the court to place and
 725 supervise offenders sentenced to community service or educational advancement. Such
 726 term ~~may mean~~ includes a paid professional or a volunteer.

727 (4) 'Educational advancement' means attending a work or job skills training program, a
 728 preparatory class for the general educational development (GED) diploma, or similar
 729 activity.

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

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

734 (1) ~~Services provided by an offender to a disabled person in accordance with paragraph~~
 735 ~~(1) of subsection (c) of Code Section 42-3-52;~~

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

737 ~~(3)~~(2) An order or direction by the ~~sentencing~~ court.

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

740 42-3-51.

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

743 (1) Eligibility;

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

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

746 (4) Provisions for supervising the offender.

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

750 (c) If an agency violates any court order or ~~provision~~ of this article, the offender shall be
751 removed from the agency and the agency shall no longer be eligible to participate in the
752 court's community service or educational advancement program.

753 (d) No agency or community service officer shall be liable at law as a result of any of such
754 agency's or community service officer's acts performed while an offender was participating
755 in a community service or educational advancement program. This limitation of liability
756 shall not apply to actions on the part of any agency or community service officer which
757 constitute gross negligence, recklessness, or willful misconduct.

758 42-3-52.

759 (a) Community service or educational advancement may be considered as a condition of
760 probation or in lieu of court imposed financial obligations with primary consideration given
761 to the following categories of offenders:

762 (1) Traffic violations;

763 (2) Ordinance violations;

764 (3) Noninjurious or nondestructive, nonviolent misdemeanors;

765 (4) Noninjurious or nondestructive, nonviolent felonies; and

766 (5) Other offenders considered upon the discretion of the court.

767 (b) The court may confer with the prosecuting attorney, the offender or his or her attorney
768 if the offender is represented by an attorney, a community supervision officer, a community
769 service officer, or other interested persons to determine if ~~the community service program~~
770 or educational advancement is appropriate for an offender. A court order shall specify that

771 the court has approved community service or educational assistance for an offender. If
 772 community service or educational advancement is ordered as a condition of probation, the
 773 court shall order:

774 (1) Not less than 20 hours nor more than 250 hours in cases involving traffic or
 775 ordinance violations or misdemeanors, such service to be completed within one year; or
 776 (2) Not less than 20 hours nor more than 500 hours in felony cases, such service to be
 777 completed within three years.

778 ~~(c)(1) Any agency may recommend to the court that certain disabled persons are in need
 779 of a live-in attendant. The court shall confer with the prosecuting attorney, the offender
 780 or his or her attorney if the offender is represented by an attorney, a community
 781 supervision officer, a community service officer, or other interested persons to determine
 782 if a community service program involving a disabled person is appropriate for an
 783 offender. If community service as a live-in attendant for a disabled person is deemed
 784 appropriate and if both the offender and the disabled person consent to such service, the
 785 court may order such live-in community service as a condition of probation but for no
 786 longer than two years.~~

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

791 ~~(3) Such live-in arrangement shall be terminated by the court upon the request of the
 792 offender or the disabled person. Upon termination of such arrangement, the court shall
 793 determine if the offender has met the conditions of probation.~~

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

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

798 ~~(e)(d)~~ Community service or educational advancement hours may be added to original
 799 court ordered hours as a disciplinary action by the court, as an additional requirement of
 800 any program in lieu of incarceration, or as part of the sentencing options system as set forth
 801 in Article 6 of this chapter.

802 42-3-53.

803 The community service officer shall place an offender sentenced to community service as
 804 a condition of probation or educational advancement with an appropriate agency. The
 805 agency and work schedule shall be approved by the court. If the offender is employed at
 806 the time of sentencing or if the offender becomes employed after sentencing, the

807 community service officer shall consider the offender's work schedule and, to the extent
 808 practicable, shall schedule the community service or educational advancement so that it
 809 will not conflict with the offender's work schedule. This scheduling accommodation shall
 810 not be construed as requiring the community service officer to alter scheduled community
 811 service or educational advancement based on changes in an offender's work schedule. The
 812 community service officer shall supervise the offender for the duration of the sentence
 813 which requires community service ~~sentence~~ or educational advancement. Upon completion
 814 of the ~~community service~~ such sentence, the community service officer shall prepare a
 815 written report evaluating the offender's performance which shall be used to determine if the
 816 conditions of probation or sentence have been satisfied.

817 42-3-54.

818 ~~(a) The provisions of Article 2 of Chapter 8 of this title shall be applicable to offenders~~
 819 ~~sentenced to community service as a condition of probation~~ or educational advancement
 820 pursuant to this article. ~~The provisions of Article 3 of Chapter 8 of this title shall be~~
 821 applicable to first offenders sentenced to community service or educational advancement
 822 pursuant to this article. ~~The provisions of Article 6 of Chapter 8 of this title shall be~~
 823 applicable to misdemeanor or ordinance violator offenders sentenced to community service
 824 ~~as a condition of probation~~ or educational advancement pursuant to this article.

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

829 SECTION 2-12.

830 Said title is further amended by revising paragraph (2) of subsection (e) of Code Section
 831 42-8-34, relating to sentencing hearings and determinations, presentence investigations,
 832 payment of fees, fines, and costs, post-conviction, presentence bond, continuing jurisdiction,
 833 and transferral of probation supervision, as follows:

834 "(2) The court may convert fines, statutory surcharges, and probation supervision fees
 835 to community service or educational advancement on the same basis as it allows a
 836 defendant to pay a fine through community service or educational advancement as set
 837 forth in subsection (d) of Code Section 17-10-1."

838 **SECTION 2-13.**

839 Said title is further amended by revising paragraph (2) of subsection (d) of Code Section
 840 42-8-37, relating to the effect of termination of the probated portion of a sentence and review
 841 of cases of persons receiving probated sentences, as follows:

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

846 **SECTION 2-14.**

847 Said title is further amended by revising paragraph (1) of subsection (b) of Code Section
 848 42-8-62.1, relating to limiting public access to first offender status, petitioning, and sealing
 849 a record, as follows:

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

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

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

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

861 **SECTION 2-15.**

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

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

869 (2) An individual who was sentenced between March 18, 1968, and October 31, 1982,
 870 to a period of incarceration not exceeding one year but who would otherwise have
 871 qualified for sentencing pursuant to this article may, with the consent of the prosecuting

872 attorney, petition the ~~superior court in the county~~ in which he or she was convicted for
 873 exoneration of guilt and discharge pursuant to this article."

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

875 **SECTION 2-16.**

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

879 "(d) The court may convert fines, statutory surcharges, and probation supervision fees to
 880 community service or educational advancement on the same basis as it allows a defendant
 881 to pay a fine through community service or educational advancement as set forth in
 882 subsection (d) of Code Section 17-10-1."

883 **SECTION 2-17.**

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

886 "(b) When pay-only probation is imposed, the ~~probation supervision fees~~ total maximum
 887 fee collected shall be capped so as not to exceed three months of ordinary probation
 888 supervision fees at a monthly rate not to exceed the rate set forth in the contract between
 889 the court and the provider of services, notwithstanding the number of cases for which a fine
 890 and statutory surcharge were imposed or that the defendant was sentenced to serve
 891 consecutive sentences; provided, however, that collection of ~~any probation supervision~~
 892 such fee shall terminate as soon as all court imposed fines and statutory surcharges are paid
 893 in full; and provided, further, that when all such fines and statutory surcharges are paid in
 894 full, the probation officer or private probation officer, as the case may be, shall submit an
 895 order to the court terminating the probated sentence within 30 days of fulfillment of such
 896 conditions. ~~The~~ Within 90 days of receiving such order, the court shall ~~terminate~~ issue an
 897 order terminating such probated sentence or issue an order stating why such probated
 898 sentence shall continue."

899 **SECTION 2-18.**

900 Said title is further amended by revising paragraph (2) of subsection (b) of Code Section
 901 42-8-105, relating to a probationer's obligation to keep officer informed of certain
 902 information and tolling for failure to meet certain obligations, as follows:

903 "(2) In the event the probationer ~~reports~~ does not report to his or her probation officer or
 904 private probation officer, as the case may be, within the period prescribed in
 905 subparagraph (D) of paragraph (1) of this subsection, ~~the probationer shall be scheduled~~

906 ~~to appear on the next available court calendar for a hearing to consider whether the~~
 907 ~~probation sentence should be tolled~~ such officer shall submit the affidavit required by this
 908 subsection to the court. If the probationer reports to his or her probation officer or private
 909 probation officer, as the case may be, within the period prescribed in subparagraph (D)
 910 of paragraph (1) of this subsection, such officer shall neither submit such affidavit nor
 911 seek a tolling order."

912 **SECTION 2-19.**

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

915 "SECTION 3.

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

918 **SECTION 2-20.**

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

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

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

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

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

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

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

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

938 "(q)(1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section or
 939 any other provision of law, and unless a felony or crime involving moral turpitude

940 directly relates to the occupation for which the license is sought or held, no professional
 941 licensing board shall refuse to grant a license to an applicant therefor or shall revoke the
 942 license of ~~a person~~ an individual licensed by that board due solely or in part to a
 943 ~~conviction~~ such applicant's or licensee's:

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

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

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

950 (D) Sentence for such offense pursuant to subsection (a) or (c) of Code Section
 951 16-13-2;

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

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

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

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

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

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

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

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

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

971

PART III

972

SECTION 3-1.

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

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

981

SECTION 3-2.

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

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

990 (13) Shall request federal approval for and facilitate the application of certificates of
 991 need for facilities capable of providing long-term care services, with Medicaid as the
 992 primary funding source, to inmates who are eligible for such services and funding upon
 993 his or her release from a public institution, as such term is defined in Code Section
 994 49-4-31."

995

SECTION 3-3.

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

999 "49-4-31.

1000 As used in this article, the term:

1001 (1) 'Applicant' means a person who has applied for assistance under this article.

1002 (2) 'Assistance' means money payments to, medical care in behalf of, or any type of
 1003 remedial care recognized under state law in behalf of needy individuals who are 65 years
 1004 of age or older but ~~does~~ shall not include any such payments to or care in behalf of any

1005 individual who is ~~an inmate of a public institution (except as a patient in a medical~~
 1006 ~~institution) or any individual who is a patient in an institution for tuberculosis or mental~~
 1007 health or developmental disability services.

1008 (3) 'Medical institution' means an institution that is organized to provide medical,
 1009 nursing, or convalescent care.

1010 (4) 'Public institution' means an institution that is the responsibility of a governmental
 1011 unit or over which a governmental unit exercises administrative control.

1012 ~~(3)~~(5) 'Recipient' means a person who has received assistance under this article."

1013 **SECTION 3-4.**

1014 Said chapter is further amended by revising Code Section 49-4-32, relating to eligibility for
 1015 assistance under this article, as follows:

1016 "49-4-32.

1017 (a) Assistance shall be granted under this article to any person who:

1018 (1) Is 65 years of age or older;

1019 (2) Does not have sufficient income or other resources to provide a reasonable
 1020 subsistence compatible with decency and health;

1021 ~~(3) Is not, at the time of receiving assistance, an inmate or patient of any public~~
 1022 ~~institution, except as a patient in a medical institution. An inmate or patient of such an~~
 1023 ~~institution may, however, make application for such assistance but the assistance, if~~
 1024 ~~granted, shall not begin until after he ceases to be an inmate;~~

1025 ~~(4) Has not made an assignment or transfer of property for the purpose of rendering~~
 1026 ~~himself eligible~~ attaining eligibility for assistance under this article at any time within two
 1027 years immediately prior to the filing of application for assistance pursuant to this article;

1028 ~~(5)~~(4) Has been a bona fide resident of this state for not less than one year; and

1029 ~~(6)~~(5) Is not receiving assistance under Article 3 of this chapter.

1030 (b) No applicant shall be required to subscribe to a pauper's oath in order to be eligible for
 1031 assistance under this article.

1032 ~~(c) Final conviction of a crime or criminal offense and detention of one so convicted either~~
 1033 ~~by this state or by any subdivision thereof shall constitute a forfeiture or suspension of all~~
 1034 ~~rights to assistance under this article but only during the period of actual confinement~~

1035 Inmates of any public institution meeting the requirements of subsection (a) of this Code
 1036 section may be granted assistance, provided such public institution has entered into an
 1037 agreement with the Department of Community Health to determine an inmate's eligibility
 1038 for assistance and services. Such agreement shall require the public institution or medical
 1039 institution providing services to such inmate to provide the Department of Community

1040 Health with the required monetary payment to match the federal matching funds as set
 1041 forth in federal law for the services received."

1042 **SECTION 3-5.**

1043 Said chapter is further amended in Code Section 49-4-51, relating to definitions for aid to the
 1044 blind, by revising paragraph (2), by redesignating paragraphs (3) and (4) as paragraphs (4)
 1045 and (5), respectively, and paragraphs (5) and (6) as paragraphs (7) and (8), respectively, and
 1046 by adding new paragraphs to read as follows:

1047 "(2) 'Assistance' means money payments to or hospital care in behalf of needy blind
 1048 individuals but ~~does~~ shall not include any such payments to or care in behalf of any such
 1049 individual who is ~~an inmate of a public institution (except as a patient in a medical~~
 1050 ~~institution) nor any individual who:~~

1051 (A) Is a patient in an institution for tuberculosis or mental illness or developmental
 1052 disability; or

1053 (B) Has been diagnosed as having tuberculosis or being mentally ill or
 1054 developmentally disabled and is a patient in a medical institution as a result thereof.

1055 (3) 'Medical institution' means an institution that is organized to provide medical,
 1056 nursing, or convalescent care."

1057 "(6) 'Public institution' means an institution that is the responsibility of a governmental
 1058 unit or over which a governmental unit exercises administrative control."

1059 **SECTION 3-6.**

1060 Said chapter is further amended by revising subsection (b) of Code Section 49-4-52, relating
 1061 to eligibility for assistance under this article, as follows:

1062 ~~"(b) All assistance under this article shall be suspended in the event of and during the~~
 1063 ~~period of confinement in any public penal institution after final conviction of a crime~~
 1064 ~~against the laws of this state or any political subdivision thereof Inmates of any public~~
 1065 ~~institution meeting the requirements of subsection (a) of this Code section may be granted~~
 1066 ~~assistance, provided such public institution has entered into an agreement with the~~
 1067 ~~Department of Community Health to determine an inmate's eligibility for assistance and~~
 1068 ~~services. Such agreement shall require the public institution or medical institution~~
 1069 ~~providing services to such inmate to provide the Department of Community Health with~~
 1070 ~~the required monetary payment to match the federal matching funds as set forth in federal~~
 1071 ~~law for the services received."~~

SECTION 3-7.

1072
 1073 Said chapter is further amended in Code Section 49-4-80, relating to definitions for aid to the
 1074 disabled, by revising paragraph (2), by redesignating paragraphs (3) and (4) as paragraphs
 1075 (5) and (6), respectively, and by adding new paragraphs to read as follows:

1076 "(2) 'Assistance' means money payments to, or hospital care in behalf of, needy
 1077 individuals who are totally and permanently disabled but does not include ~~any such~~
 1078 ~~payments to or care in behalf of any such individual who is an inmate of a public~~
 1079 ~~institution (except as a patient in a medical institution) or any individual:~~

1080 (A) Who is a patient in an institution for tuberculosis or mental illness or
 1081 developmental disability; or

1082 (B) Who has been diagnosed as having tuberculosis or being mentally ill or
 1083 developmentally disabled and is a patient in a medical institution as a result thereof.

1084 (3) 'Medical institution' means an institution that is organized to provide medical,
 1085 nursing, or convalescent care.

1086 (4) 'Public institution' means an institution that is the responsibility of a governmental
 1087 unit or over which a governmental unit exercises administrative control."

SECTION 3-8.

1088
 1089 Said chapter is further amended in Code Section 49-4-81, relating to eligibility for assistance
 1090 under this article, by adding a new subsection to read as follows:

1091 "(c) Inmates of any public institution meeting the requirements of subsection (a) of this
 1092 Code section may be granted assistance, provided such public institution has entered into
 1093 an agreement with the Department of Community Health to determine an inmate's
 1094 eligibility for assistance and services. Such agreement shall require the public institution
 1095 or medical institution providing services to such inmate to provide the Department of
 1096 Community Health with the required monetary payment to match the federal matching
 1097 funds as set forth in federal law for the services received."

PART IV**SECTION 4-1.**

1100 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 1101 amended by revising subparagraph (a)(6)(B) of Code Section 16-8-12, relating to penalties
 1102 for theft in violation of Code Sections 16-8-2 through 16-8-9, as follows:

1103 "(B) If the property which was the subject of the theft offense was a destructive device,
 1104 explosive, or firearm, by imprisonment for not less than one year nor more than ten

1105 years; provided, however, that upon a second or subsequent conviction, by
 1106 imprisonment for not less than five nor more than ten years."

1107 **SECTION 4-2.**

1108 Said title is further amended by revising Code Section 16-9-70, relating to criminal use of
 1109 an article with an altered identification mark, as follows:

1110 "16-9-70.

1111 (a) As used in this Code section, the term 'firearm' shall have the same meaning as set forth
 1112 in division (a)(6)(A)(iii) of Code Section 16-8-12.

1113 (b) A person commits the offense of criminal use of an article with an altered identification
 1114 mark when he or she buys, sells, receives, disposes of, conceals, or has in his or her
 1115 possession a radio, piano, phonograph, sewing machine, washing machine, typewriter,
 1116 adding machine, comptometer, bicycle, firearm, safe, vacuum cleaner, dictaphone, watch,
 1117 watch movement, watch case, or any other mechanical or electrical device, appliance,
 1118 contrivance, material, vessel as defined in Code Section 52-7-3, or other piece of apparatus
 1119 or equipment, other than a motor vehicle as defined in Code Section 40-1-1, from which
 1120 he or she knows the manufacturer's name plate, serial number, or any other distinguishing
 1121 number or identification mark has been removed for the purpose of concealing or
 1122 destroying the identity of such article.

1123 ~~(b)~~(c)(1) A person convicted of the offense of criminal use of an article, other than a
 1124 firearm, with an altered identification mark shall be guilty of a felony and upon
 1125 conviction shall be punished by imprisonment for not less than one year nor more than
 1126 five years.

1127 (2) A person convicted of the offense of criminal use of a firearm with an altered
 1128 identification mark shall be guilty of a felony and upon conviction shall be punished by
 1129 imprisonment for not less than one year nor more than ten years; provided, however, that
 1130 upon a second or subsequent conviction, by imprisonment for not less than five nor more
 1131 than ten years.

1132 ~~(c)~~(d) This Code section ~~does~~ shall not apply to those cases or instances ~~where~~ when any
 1133 of the changes or alterations enumerated in subsection ~~(a)~~ (b) of this Code section have
 1134 been customarily made or done as an established practice in the ordinary and regular
 1135 conduct of business by the original manufacturer or by ~~his~~ its duly appointed direct
 1136 representative or under specific authorization from the original manufacturer."

1137 **SECTION 4-3.**

1138 Said title is further amended by revising Code Section 16-11-113, relating to the offense of
 1139 transferring a firearm to an individual other than the actual buyer, as follows:

1140 "16-11-113.

1141 (a) Any person who knowingly attempts to solicit, persuade, encourage, or entice any
 1142 dealer to transfer or otherwise convey a firearm ~~other than to~~ an individual who is not the
 1143 actual buyer, to an individual who is on probation as a felony first offender pursuant to
 1144 Article 3 of Chapter 8 of Title 42, to an individual who is on probation and sentenced for
 1145 a felony under subsection (a) or (c) of Code Section 16-13-2, or to an individual who has
 1146 been convicted of a felony by a court of this state or any other state, as well as any other
 1147 person who willfully and intentionally aids or abets such person, shall be guilty of a felony
 1148 and upon conviction shall be punished by imprisonment for not less than one year nor more
 1149 than five years; provided, however, that upon a second or subsequent conviction, by
 1150 imprisonment for not less than five nor more than ten years.
 1151 (b) This Code section shall not apply to a federal law enforcement officer or a peace
 1152 officer, as defined in Code Section 16-1-3, in the performance of his or her official duties
 1153 or other person under such officer's direct supervision."

1154 **SECTION 4-4.**

1155 Said title is further amended by revising subsections (b), (b.1), and (f) of Code Section
 1156 16-11-131, relating to possession of firearms by convicted felons and first offender
 1157 probationers, as follows:

1158 "(b) Any person who is on probation as a felony first offender pursuant to Article 3 of
 1159 Chapter 8 of Title 42, who is on probation and was sentenced for a felony under subsection
 1160 (a) or (c) of Code Section 16-13-2, or who has been convicted of a felony by a court of this
 1161 state or any other state; by a court of the United States including its territories, possessions,
 1162 and dominions; or by a court of any foreign nation and who receives, possesses, or
 1163 transports any firearm commits a felony and, upon conviction thereof, shall be imprisoned
 1164 for not less than one year nor more than five ten years; provided, however, that upon a
 1165 second or subsequent conviction, such person shall be imprisoned for not less than five nor
 1166 more than ten years; provided, further, that if the felony as to for which the person is on
 1167 probation or has been previously convicted is a forcible felony, then upon conviction of
 1168 receiving, possessing, or transporting a firearm, such person shall be imprisoned for a
 1169 period of five years.

1170 (b.1) Any person who is prohibited by this Code section from possessing a firearm because
 1171 of conviction of a forcible felony or because of being on probation as a first offender or
 1172 under conditional discharge for a forcible felony ~~pursuant to this Code section~~ and who
 1173 attempts to purchase or obtain transfer of a firearm shall be guilty of a felony and upon
 1174 conviction shall be punished by imprisonment for not less than one year nor more than five

1175 years; provided, however, that upon a second or subsequent conviction, such person shall
 1176 be punished by imprisonment for not less than five nor more than ten years."
 1177 "(f) Any person ~~placed on probation~~ sentenced as a first offender pursuant to Article 3 of
 1178 Chapter 8 of Title 42 or sentenced pursuant to subsection (a) or (c) of Code Section
 1179 16-13-2 and subsequently discharged without court adjudication of guilt as a matter of law
 1180 pursuant to Code Section 42-8-60 or 16-13-2, as applicable, shall, upon such discharge, be
 1181 relieved from the disabilities imposed by this Code section."

1182 SECTION 4-5.

1183 Code Section 16-13-60 of the Official Code of Georgia Annotated, relating to privacy and
 1184 confidentiality, use of data, and security program for the prescription drug monitoring
 1185 program data base, is amended by revising subsection (c) as follows:

1186 "(c) The department shall be authorized to provide requested prescription information
 1187 collected pursuant to this part only as follows:

1188 (1) To persons authorized to prescribe or dispense controlled substances for the sole
 1189 purpose of providing medical or pharmaceutical care to a specific patient;

1190 (2) Upon the request of a patient, prescriber, or dispenser about whom the prescription
 1191 information requested concerns or upon the request on his or her behalf of his or her
 1192 attorney;

1193 (3) To local or state law enforcement or prosecutorial officials pursuant to the issuance
 1194 of a search warrant from an appropriate court or official in the county in which the office
 1195 of such law enforcement or prosecutorial officials are located ~~pursuant to Article 2 of~~
 1196 ~~Chapter 5 of Title 17~~ or to federal law enforcement or prosecutorial officials ~~pursuant to~~
 1197 ~~the~~ as allowed by federal law by the issuance of a search warrant pursuant to 21 U.S.C.
 1198 ~~or, a grand jury subpoena pursuant to 18 U.S.C., an administrative subpoena, or a civil~~
 1199 investigative demand;

1200 (4) To the agency, the Georgia Composite Medical Board or any other state regulatory
 1201 board governing prescribers or dispensers in this state, or the Department of Community
 1202 Health for purposes of the state Medicaid program, for health oversight purposes, or upon
 1203 the issuance of a subpoena by such agency, board, or Department of Community Health
 1204 pursuant to their existing subpoena power or to the federal Centers for Medicare and
 1205 Medicaid Services upon the issuance of a subpoena by the federal government pursuant
 1206 to its existing subpoena ~~powers~~ power;

1207 (5)(A) To not more than two individuals who are members per shift or rotation of the
 1208 prescriber's or dispenser's staff ~~or employed at the health care facility in which the~~
 1209 ~~prescriber is practicing, provided that such individuals:~~

1210 ~~(i) Are licensed under Chapter 11, 30, 34, or 35 of Title 43;~~

1211 ~~(ii) Are registered under Title 26;~~

1212 ~~(iii) Are licensed under Chapter 26 of Title 43 and submit to the annual registration~~

1213 ~~process required by subsection (a) of Code Section 16-13-35, and for purposes of this~~

1214 ~~Code section, such individuals shall not be deemed exempted from registration as set~~

1215 ~~forth in subsection (g) of Code Section 16-13-35; or~~

1216 ~~(iv) Submit to the annual registration process required by subsection (a) of Code~~

1217 ~~Section 16-13-35, and for purposes of this Code section, such individuals shall not be~~

1218 ~~deemed exempted from registration as set forth in subsection (g) of Code Section~~

1219 ~~16-13-35;~~

1220 (B) Such individuals may retrieve and review such information strictly for the purpose

1221 of:

1222 (i) Providing medical or pharmaceutical care to a specific patient; or

1223 (ii) Informing the prescriber or dispenser of a patient's potential use, misuse, abuse,

1224 or underutilization of prescribed medication;

1225 (C) All information retrieved and reviewed by such individuals shall be maintained in

1226 a secure and confidential manner in accordance with the requirements of subsection (f)

1227 of this Code section; and

1228 (D) The delegating prescriber or dispenser may be held civilly liable and criminally

1229 responsible for the misuse of the prescription information obtained by such individuals;

1230 (6) To not more than two individuals, per shift or rotation, who are employed or

1231 contracted by the health care facility in which the prescriber is practicing so long as the

1232 medical director of such health care facility has authorized the particular individuals for

1233 such access; ~~and~~

1234 (7) In any hospital which provides emergency services, each prescriber may designate

1235 two individuals, per shift or rotation, who are employed or contracted by such hospital

1236 so long as the medical director of such hospital has authorized the particular individuals

1237 for such access; and

1238 (8) To a prescription drug monitoring program operated by a government entity in

1239 another state or an electronic medical records system operated by a prescriber or health

1240 care facility, provided the program or system, as determined by the department, contains

1241 legal, administrative, technical, and physical safeguards that meet or exceed the security

1242 measures of the department for the operation of the PDMP pursuant to this part."

1243 **PART V**

1244 **SECTION 5-1.**

1245 Article 2 of Chapter 4 of Title 20 of the Official Code of Georgia Annotated, relating to
1246 technical and adult education, is amended by adding a new Code section to read as follows:

1247 "20-4-39.

1248 Campus policemen and other security personnel who are regular employees of the
1249 Technical College System of Georgia shall have the power to make arrests for offenses
1250 committed upon any property under the jurisdiction of the Technical College System of
1251 Georgia and for offenses committed upon any public or private property within 500 feet
1252 of such property."

1253 **SECTION 5-2.**

1254 Chapter 8 of Title 20 of the Official Code of Georgia Annotated, relating to campus
1255 policemen, is amended by revising Code Section 20-8-4, relating to exemption of university
1256 system campus policemen, as follows:

1257 "20-8-4.

1258 A campus policeman exercising the power of arrest pursuant to Code Section 20-3-72 or
1259 20-4-39 providing campus policemen and other security personnel of the University
1260 System of Georgia or the Technical College System of Georgia with arrest powers for
1261 offenses committed upon university system property or Technical College System of
1262 Georgia property, respectively, shall be exempt from this chapter."

1263 **SECTION 5-3.**

1264 Chapter 69 of Title 36 of the Official Code of Georgia Annotated, relating to mutual aid
1265 regarding local government, is amended by revising Code Section 36-69-3, relating to
1266 extraterritorial cooperation and assistance to local law enforcement agencies or fire
1267 departments and commander of operations, as follows:

1268 "36-69-3.

1269 (a)(1) Upon the request of a local law enforcement agency for assistance in a local
1270 emergency, in the prevention or detection of violations of any law, in the apprehension
1271 or arrest of any person who violates a criminal law of this state, or in any criminal case,
1272 the chief of police or public safety director of any municipality or chief of police or
1273 public safety director of any county police force may, with the approval of the governing
1274 authority of any such officer's political subdivision, and the sheriff of any county may
1275 cooperate with and render assistance extraterritorially to such local law enforcement
1276 agency requesting the same.

1277 (2)(A) Upon the request of a local law enforcement agency for assistance in a local
 1278 emergency, in the prevention or detection of violations of any law, in the apprehension
 1279 or arrest of any person who violates a criminal law of this state, or in any criminal case,
 1280 the public safety director or chief of police of any institution within the University
 1281 System of Georgia or the Technical College System of Georgia may, with the approval
 1282 of the president of such institution, cooperate with and render assistance
 1283 extraterritorially to such law enforcement agency requesting the same.

1284 (B) Upon the request for assistance in a local emergency, in the prevention or detection
 1285 of violations of any law, in the apprehension or arrest of any person who violates a
 1286 criminal law of this state, or in any criminal case, which request is made by a public
 1287 safety director or chief of police of any institution within the University System of
 1288 Georgia or the Technical College System of Georgia after approval by the president of
 1289 such institution, the chief of police or public safety director of any municipality or ~~chief~~
 1290 ~~of police or public safety director~~ of any county police force may, with the approval of
 1291 the governing authority of any such officer's political subdivision; and the sheriff of the
 1292 county, ~~may~~ cooperate with and render assistance extraterritorially to such law
 1293 enforcement agency of the institution requesting the same.

1294 (b) Upon the request of any local fire department for assistance in a local emergency, in
 1295 preventing or suppressing a fire, or in protecting life and property, the fire chief or public
 1296 safety director of any local political subdivision may, with the approval of the governing
 1297 authority of such political subdivision, cooperate with and render assistance
 1298 extraterritorially to such local fire department requesting the same.

1299 (c) Upon the request of any local law enforcement agency or local director of emergency
 1300 medical services for assistance in a local emergency or in transporting wounded, injured,
 1301 or sick persons to a place where medical or hospital care is furnished, emergency medical
 1302 technicians employed by a political subdivision may, with the approval of the governing
 1303 authority of such political subdivision, cooperate with and render assistance
 1304 extraterritorially to such local law enforcement agency or local director of emergency
 1305 services.

1306 (d) Authorization for furnishing assistance extraterritorially may be granted by the sheriff
 1307 of any county or the governing authority of a local political subdivision or the president of
 1308 an institution within the University System of Georgia or the Technical College System of
 1309 Georgia to any of its agencies or employees covered by this Code section prior to any
 1310 occurrence resulting in the need for such assistance; provided, however, that any prior
 1311 authorization granted by the president of an institution within the University System of
 1312 Georgia or the Technical College System of Georgia for the furnishing of assistance
 1313 extraterritorially must be submitted to and approved by the board of regents or the State

1314 Board of the Technical College System of Georgia, respectively, before it becomes
 1315 effective. Such authorization may provide limitations and restrictions on such assistance
 1316 furnished extraterritorially, provided that such limitations and restrictions do not conflict
 1317 with the provisions of Code Sections 36-69-4 through 36-69-6.

1318 (e) The senior officer of the public safety agency of a political subdivision or institution
 1319 within the University System of Georgia or the Technical College System of Georgia
 1320 which requests assistance in a local emergency as provided in this Code section shall be
 1321 in command of the local emergency as to strategy, tactics, and overall direction of the
 1322 operations with respect to the public safety officers and employees rendering assistance
 1323 extraterritorially at the request of such public safety agency. All orders or directions
 1324 regarding the operations of the public safety officers and employees rendering assistance
 1325 extraterritorially shall be relayed to the senior officer in command of the public safety
 1326 agency rendering assistance extraterritorially."

1327 **SECTION 5-4.**

1328 Said chapter is further amended by inserting "or the Technical College System of Georgia"
 1329 after "University System of Georgia" each time said phrase occurs in:

1330 (1) Code Section 36-36-2, relating to "Local emergency" defined.

1331 (2) Code Section 36-36-4, relating to powers and duties of employees of political
 1332 subdivision or institution within the University System of Georgia who are rendering aid.

1333 (3) Code Section 36-36-5, relating to responsibility for expenses and compensation of
 1334 employees.

1335 (4) Code Section 36-36-6, relating to applicability of privileges, immunities, exemptions,
 1336 and benefits.

1337 (5) Code Section 36-36-7, relating to liability for acts or omissions of responding agency
 1338 employees.

1339 (6) Code Section 36-36-8, relating to construction of chapter.

1340 **PART VI**

1341 **SECTION 6-1.**

1342 All laws and parts of laws in conflict with this Act are repealed.