

Prosecuting Attorneys' Council of Georgia

Summary of Legislation Enacted During the 2017 Georgia General Assembly

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The following is a summary of the Bills and Resolutions impacting prosecutors or the criminal justice system that passed during the 2017 Session of the Georgia General Assembly and, in the case of Bills or Resolutions having the effect of law, were approved by the Governor. For each Bill or Resolution, the summary includes the Bill number, a short descriptive title, the name of the Bill sponsor, the date the Bill was approved by the Governor (if required), the effective date, the summary prepared by the contributing staff, and a link to where the full text can be found on the General Assembly website.

We have provided a brief analysis for the majority of the 101 Bills and 18 Resolutions that passed during the 2017 Session that we flagged as having some impact on prosecutors in Georgia. In a few instances, where the authors concluded that the legislative short title adequately described the contents of the Bill or Resolution, no summary has been provided. Also included are the summaries of the Bills vetoed by the Governor that would have had some impact on prosecutors in Georgia. These summaries are intended to give the reader an idea of what is contained in the new law; **they are not a substitute for reading the actual text of the Bill.**

HB 5 Courts; compensation of juvenile court judges; change provisions

Johnnie Caldwell

Effective date July 1, 2017

HB 5 increases the number of days that a Supreme Court Justice and Court of Appeals Judge may claim travel reimbursement if they live more than 50 miles from the judicial building in Atlanta from 30 to 35. In addition, HB 5 amends OCGA 15-11-52(c) by allowing for

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contributions from the judicial branch budget appropriation to each juvenile court judgeship on the following schedule: For each circuit with one or more juvenile court judges who are not superior court judges, \$100,000/year. If the Circuit has more than four superior court judges, there is an additional grant of \$25,000 for each judgeship beyond the fourth. For each circuit where the superior court judges choose to use the state grant for one or more-part time judges: A part time judge who works one day per week would receive \$20,000/year. A part time judge who works two days per week would receive \$40,000/year. A part-time judge who works three days per week would receive \$60,000/year. A part time judge who works four days per week would receive \$80,000/year. State grant funds are to be used solely for salaries and no other purpose. The bill would also amend OCGA 15-11-54 by removing the word "base" from the expenditure provision. All juvenile court expenses will still be considered county expenses. The bill would be effective July 1, 2017, if the funds are appropriated in the 2017 General Assembly. If no funds are appropriated, the bill stands repealed on July 1, 2017.

<http://www.legis.ga.gov/Legislation/20172018/170639.pdf>

HB 14 Courts; sheriff to collect and deposit certain fees; provide

Jeff Jones

Effective date May 1, 2017

HB 14 amends OCGA § 15-16-21 (a) to provide that in counties where the sheriff is paid by salary, fees collected for sheriff's services are to be remitted to the County Treasury within 30 days of receipt.

<http://www.legis.ga.gov/Legislation/20172018/168987.pdf>

HB 37 Education; private postsecondary institutions in Georgia shall not adopt sanctuary policies; provide

Earl Ehrhart

Effective date July 1, 2017

HB 37 amends OCGA 20-3-10 by adding a "part 2" to the code. In summary, the new section prohibits private, postsecondary institutions from adopting policies which prevent officials or employees from communicating or cooperating with federal officials or law enforcement about individuals for violations of state law, being in the United States illegally, or who is reasonably

believed to be involved in domestic terrorism. Violations of this section by the private, postsecondary institution are punishable by withholding state funds and withholding state administered federal funds

<http://www.legis.ga.gov/Legislation/20172018/170183.pdf>

HB 75 **Social services; certain records from disclosure; exclude**

Wendell Willard

Effective date July 1, 2017

HB 75 adds a new subparagraph O.C.G.A. § 49-5-41 (a) (6) (A.1) which excludes from disclosure any DFACS record that includes information provided by law enforcement or prosecution agencies in any pending investigation or prosecution of criminal activity contained within the child abuse, neglect, or dependency records.

HB 75 also amends O.C.G.A. § 49-5-41 (e)(2) by adding a new subparagraph (G) which allows the redaction from child abuse and dependency records any DFACS record that includes information provided by law enforcement or prosecution agencies in any pending investigation or prosecution of criminal activity within the child abuse, neglect, or dependency records.

<http://www.legis.ga.gov/Legislation/20172018/168894.pdf>

HB 86 **Domestic relations; definition of sexual abuse; expand**

Mary Oliver

Effective date May 8, 2017

HB 86 adds Trafficking a Person for Sexual Servitude as defined in 16-5-46, to the offenses that must be reported to law enforcement or district attorneys pursuant to the mandatory reporting statute.

<http://www.legis.ga.gov/Legislation/20172018/168553.pdf>

HB 88 Superior courts; qualifications for judges; revise

Barry Fleming

Effective July 1, 2017

HB 88 adds a qualification that state and superior court judges shall be a member in good standing with the State Bar of Georgia and a judgeship shall be vacated if the judge is disbarred or suspended from the practice of law.

<http://www.legis.ga.gov/Legislation/20172018/170638.pdf>

HB 92 Insurance; automobile or motorcycle policies; expand definition of policy

John Carson

Effective July 1, 2017

HB 92 amends OCGA § 33-24-45(b)(1) relating to the cancellation or nonrenewal of auto or motorcycle insurance policies by expanding the definition of "Policy" to include multiple policies issued by the same insurer.

<http://www.legis.ga.gov/Legislation/20172018/170631.pdf>

HB 126 Courts; Judicial Qualifications Commission; change provisions

Wendell Willard

Effective July 1, 2017

Effective July 1, 2017, the JQC is increased in size from 7 to 10 members. The current JQC is dissolved and reconstituted under this new law. The ten members will be divided between a 7 member investigative panel and a 3 member hearing panel. The investigative panel would be responsible for the investigative, prosecutorial, and administrative functions of the JQC, make the rules for the JQC, and employ people as needed. The hearing panel adjudicates the formal charges, makes recommendations to the Supreme Court, and issues formal advisory opinions. There are provisions concerning who makes the appointments and whether the members have to be lawyers, judges, or private citizens. All information regarding a disciplinary or incapacity matter shall be kept confidential before formal charges are filed. If the matter is satisfactorily resolved, a report of the disposition shall be publically filed in the

Supreme Court. After the filing and service of formal charges, only incapacity matters are kept confidential. Disciplinary matters are open and available to the public.

<http://www.legis.ga.gov/Legislation/20172018/170154.pdf>

HB 136 Drivers' licenses; demarcation of a valid driver's license, permit, or identification card; provide

Amy Carter Effective dates: Sections One and Five July 1, 2018. The remaining sections are effective July 1, 2017.

HB 136 amends several code sections related to driver's licenses, permits, and ID cards.

- Section 1: Amends OCGA § 40-5-20 to require any person making application for a driver's license, instruction permit, or limited driving permit to indicate on their application whether they are in possession of any other valid license or permit issued by Georgia or any other jurisdiction, and further provides that such person may not receive a driver's license unless and until they surrender all valid licenses and permits in their possession to the DDS. The DDS shall mark the surrendered license or permit in a manner that it is apparent that the license is no longer valid, and shall return the license to the applicant. The DDS shall issue a receipt to eligible drivers that will satisfy the requirement concerning proof of eligibility to drive until they receive their permanent license or permit. If applicable, the DDS shall forward all license information of surrendered licenses to previous jurisdictions. Non-citizens are allowed to retain their foreign license, provided they are not required by Federal law to terminate their foreign license.
- Section 2: Amends OCGA § 40-5-22, which allows younger residents to obtain class P permits to drive when a parent/guardian is physically incapable of driving. The current requirement that the physically impaired parent have previously held a valid license is removed in this bill.
- Section 2A: Amends OCGA § 40-5-23(c) - relating to classes of driver's licenses and the vehicles authorized to be driven by said license holders - by adding to Class C: any three-wheeled motor vehicle equipped with a steering wheel for directional control; and by adding to Class M: three-wheeled motorcycles equipped with handlebars for directional control.
- Section 3: Amends the fee schedule for applications, licenses, and permits.

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- Section 4: Amends OCGA § 40-5-53 (b)(4) to allow any conviction, regardless of date of report, to be considered for purposes of commercial vehicle license disqualification in accordance with OCGA § 40-5-151. Current code applies only to violations of Article 7 (CDL provisions).
- Section 5: Makes the same changes to OCGA § 40-5-100 relating to the possession, application, and surrender of ID cards as were made to OCGA § 40-5-20 in section 1.
- Section 6: Reduces the fee for an 8-year ID card to \$32.00 from \$35.00.
- Section 6A: Amends OCGA § 40-6-311(b) by adding language that a motorcycle must be equipped with handlebars for directional control.
- Section 7: Amends OCGA § 40-16-5 to allow the DDS to contract with a debt collection agency or attorney for the purpose of collecting delinquent fees owed to the DDS, and allows the cost of such a contract to be added to the fees owed by the driver. The DDS is authorized to release to said collector information concerning the fees and the debtor necessary for the collection of the fees owed. No fees may be collected under this subsection unless the debtor is subject to license suspension or cancellation.

<http://www.legis.ga.gov/Legislation/20172018/170633.pdf>

HB 138 Superior courts; fifth judge of the Northeastern Judicial Circuit; provide

Lee Hawkins

Effective January 1, 2018

HB 138 creates a 5th superior court judgeship in the Northeastern Judicial Circuit on January 1, 2018. The seat will be subject to an election in 2020.

<http://www.legis.ga.gov/Legislation/20172018/170634.pdf>

HB 202 Public officers and employees; annual salary for the Governor; change provisions

Jay Powell

Effective date varies

HB 202 makes changes to salaries of state officials. Effective January 1, 2019 the Governor's salary is increased from \$60,000 to \$175,000. Effective July 1, 2017, the act gives members of the General Assembly broader categories of expenses for which they can claim up to \$7,000 in

reimbursement. It also authorizes a cost of living adjustment for certain state officials (including DA's) in an amount not to exceed any raises authorized for employees of the executive, judicial, and legislative branches of government.

<http://www.legis.ga.gov/Legislation/20172018/170646.pdf>

HB 221 Commerce and trade; powers of attorney to a uniform Act; update and conform provisions

Chuck Efstrotation

Effective date July 1, 2017

The Uniform Power of Attorney Act clarifies the terms and responsibilities of powers of attorney in Georgia. By updating and strengthening the law regarding powers of attorney, agents and principles who are parties to a power of attorney are provided protection under the law. The update also provides for the prosecution of those who would use a power of attorney to exploit the elderly or disabled.

- 10-6B-16(a) (7) Gives a governmental agency which protects the welfare of the principal, the authority to petition a court to construe a power of attorney.
- 10-6B-40 Specifically outlines the actions that an agent to a power of attorney can do only with the express authority of the principal. Some of these actions include; making a gift, changing the rights of survivorship to property, changing beneficiaries or controlling the principal's electronic communications.
- 16-8-9 Eliminates the use of a power of attorney to absolve a person from criminal responsibility
- 16-5-105 (a) The use of a power of attorney as provided for in chapter 6b of title 10 shall not, in and of itself, absolve a person from prosecution under this article.

<http://www.legis.ga.gov/Legislation/20172018/170165.pdf>

HB 231 Controlled substances; Schedules I, II, IV and V; change certain provisions

Bruce Broadrick

Effective date April 17, 2017

HB 231 remove all specifically listed schedule 1 fentanyl analogs and replaced them with a backbone verbiage for schedule 1 fentanyl analogs similar to what was done with the benzos.

There is an exemption for fentanyl listed in other schedules. Backbone verbiage for “W” and “MT” compounds which are very powerful synthetic opiates is added as well. U-47700 and its isomer are added to Schedule 1. In addition, the benzos backbone is modified to include another substitution.

<http://www.legis.ga.gov/Legislation/20172018/170188.pdf>

HB 249 Controlled substances; collect more information regarding dispensing and use; provisions

Kevin Tanner

Effective date July 1, 2017

Department = Department of Public Health

PDMP = Prescription Drug Monitoring Program

HB 249 establishes the Prescription Drug Monitoring Program. The program’s goals are to assist in reducing abuse of controlled substances, to promote proper use of medication, to reduce duplication and over prescribing of controlled substances, and to gather data for epidemiological research. The Department of Public Health administers the program. Prescribers have until January 1, 2018 to enroll but there is a 30-day grace period for prescribers that are registered with DEA after 1/1/18. If the program meets accessibility and reliability goals, it will be certified in June 2018.

Dispensers shall submit prescription information and other details by electronic means every 24 hours instead of every 10 days. The department must be notified immediately if dispenser cannot comply due to equipment failure or other circumstances. There is an ability for the Department to issue waivers for dispensers who cannot submit information electronically and if there would be an undue hardship.

The information submitted is exempt from the Open Records Act and strict guidelines concerning disclosure of the information are to be created by the Department for those groups who are authorized by statute to access which include law enforcement and prosecutors through a search warrant. However, identifying information is scrubbed after 2 years.

The dispenser is not subject to criminal or civil liability if they do not get information from PDMP. Prescribers of controlled substances and benzos shall review PDMP the first time they issue a prescription and then every 90 days. There is a list of exceptions. Once information on PDMP is reviewed, notations are then put on the patient's record.

New Crimes: O.C.G.A. § 16-13-64: A dispenser who intentionally fails to submit correct information is subject to a felony 1-5 years and up to a \$50,000 fine. Negligent use of the information is a misdemeanor but a 2nd conviction is a felony punishable by 1-3 years and up to a \$5,000 fine. Disclosure violations are felonies punishable by 1-5 years and a fine of up to \$50,000. Use of false pretenses for obtaining or disclosing information is a felony punishable by 1-5 years and a fine of up to \$100,000. And having the intent to sell information from PDMP is a felony punishable by 1-10 years and a fine of up to \$250,000.

Finally, HB 249 exempts Naloxone from the list of dangerous drugs as long as it is being used for overdose prevention in one of the forms listed in the statute.

<http://www.legis.ga.gov/Legislation/20172018/170657.pdf>

HB 251 Emergency management; personnel go on private property as necessary to perform duties during a state of emergency; authorize

Darrel Ealum

Effective date July 1, 2017

HB 251 creates new Code section 38-3-38 to provide that during a declared state of emergency, Department of Corrections personnel and "individuals in their custody and subject to their direction" are authorized to enter private property to the extent necessary for property protection, debris removal, restoration of service and infrastructure repair and relocation. However, such personnel and individuals shall avoid interfering with the rights of private property owners and "shall vacate such private property upon request of any owner thereof."

<http://www.legis.ga.gov/Legislation/20172018/170191.pdf>

HB 261 Penal institutions; certain individuals sentenced between March 18, 1968 and October 31, 1982; allow to petition court for first offender status

William Werkheiser

Effective date July 1, 2017

HB 261 allows any offender convicted of a crime after March 18, 1968, where they were sentenced to not more than one year of incarceration, the ability to seek to have their sentence modified and be sentenced as a First Offender. The offender must have the consent of the prosecuting attorney and must demonstrate that they are otherwise qualified and the ends of justice and the welfare of society are served by granting such relief.

<http://www.legis.ga.gov/Legislation/20172018/170191.pdf>

HB 268 Elections; time period for certification of election officials; provide

Barry Fleming

Effective date July 1, 2017

HB 268 removes the references to the now defunct municipal registrars and elections officials. It also gives the state election board the authority to discipline or suspend or require remedial training for an election superintendent who violates any part of the election code. It clarifies WHEN and HOW to qualify. It addresses changes in geographic boundaries where new cities are created and county registrar responsibilities with respect to the new cities. Plus a few other housekeeping things.

Candidates can qualify for election through:

- political party primary;
- filing a notice of candidacy with affidavit and paying qualifying fee or pauper's affidavit;
- filing a lawful nominating petition as an independent or party candidate if nominated at a party convention;
- nomination for statewide office via party convention;
- declaring as a candidate in a special election;
- qualifying as an incumbent for the same office;
- declaring as a candidate for a non-partisan office.

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Presidential electors and substitutes shall be selected by the rules of the political party but there is not specific requirement that they have to vote for the nominee. Candidates for president/vice president must file notice of candidacy with secretary of state to get on ballot between 9am on 4th Monday in June until NOON the following Friday [all the old 35th week and 60 days prior language is stricken]

Candidates for US House, US Senate, and state offices have to file notice of candidacy during the 35th week, 9am Monday until NOON Friday. In a special election for federal office, notice of candidacy must be filed between call of the election and 60 days prior to election. In a special election for state office, notice of candidacy must be filed no later than 25 days before election. For county offices, notice of candidacy must be filed in 35th week, 9am Monday til NOON Friday [4th Monday in June language is stricken]. There were no changes to elections for municipal offices.

If a group files a notice of candidacy, they must also file a notarized authorization that their candidate wants the office.

Evidence of citizenship section amended to add language requiring a “legible copy” of naturalization documents and an actual Bureau of Indian Affairs card, not just providing card number. When registering to vote, person shall provide GA driver’s license number. If no DL, they must provide GA ID card number. If no ID card, then last 4 digits of SSN upon penalty of false swearing.

Application is valid only after it has been verified by board of registrars, verification can be made by cross referencing with DDS. If applicant’s information cannot be verified, registrar must provide notice to applicant and applicant must prove identity. If verified by the primary, they can vote a real ballot. If unverified, they can vote a provisional ballot which can be counted if verified by final vote report made. Application shall be rejected if not verified within 26 months of application being filed. These rules apply only to paper applications, not electronic registrations

If elector moves out of Georgia, they are removed from the voter list. If they move within Georgia, their registration is transferred to the new county/municipality.

After January 1, 2018, election superintendent is prohibited from moving polling places within 90 days of a primary or election.

<http://www.legis.ga.gov/Legislation/20172018/170669.pdf>

HB 279 Domestic relations; name change requested by victim of family violence; provide separate process

Mandi Ballinger

Effective date July 1, 2017

HB 279 allows victims of family violence to petition a court to file a request for name change under seal. If the court made a finding that the petitioner was a victim of domestic violence, it could order that the publication requirements be waived. A domestic violence victim may also petition to change a child's name under seal.

<http://www.legis.ga.gov/Legislation/20172018/170669.pdf>

HB 280 Firearms; license holders; carrying and possession of certain weapons in certain buildings or real property owned or leased to public institutions of postsecondary education; authorize

Mandi Ballinger

Effective date July 1, 2017

HB 280 is the 'Campus Carry' bill. Allows weapons carry permit holders to carry concealed on postsecondary educational institutes. The exceptions apply to building or property used for athletic sporting events or student housing, any preschool or childcare space located within such buildings or real property, spaces used for 'career academy' or 'specialized school' as provided in 20-4-37, any room where high school students are enrolled through a dual enrollment program, and not apply to faculty/staff/administrative offices or rooms where disciplinary proceeding are conducted. Violations are misdemeanor level with first offenders given a fine with no confinement.

<http://www.legis.ga.gov/Legislation/20172018/170679.pdf>

HB 292 Firearms; laws relating to the carrying of weapons and safety; revise and clarify

Rick Jasperse

Effective date May 8, 2017

HB 292 is known as the 'Georgia Firearms Industry Nondiscrimination Act' which captures financial services under title 10. The act makes it unlawful to discriminate against a person or trade association because they are engaged in the lawful commerce of firearms or ammunition products. The bill sets up a mechanism for the Attorney General to bring an action in the name of the State to act on behalf of the person or trade association and recover civil damages.

Other portions of the bill amend various portions of weapons carry. The definition of 'knife' changes from 5 to 12 inches, there is a 90 day GA resident timeline to apply for a carry permit once you've become a resident, voluntary gun safety information to be provided to weapon carry applicants, shortens law enforcement agency applicant submission timelines to the probate court, and allows weapon carry holder to update names because of marriage, divorce, or address change. Adds a new category of exempted individuals from weapons carry – retired law enforcement with sufficient service, separated in good standing, and possesses an ID card issued by POST who maintains standards for the issuance of such card. Also creates tort civil immunity to any firearm instructor.

There is a new provision for courthouses whereby the law enforcement agency with jurisdiction over a courthouse may create a plan for the holding of weapons carried by persons under 16-11-130. However, active law enforcement acting in the performance of their official duties are exempted from such a plan if they have their official badge displayed and plainly visible.

<http://www.legis.ga.gov/Legislation/20172018/170162.pdf>

HB 312 Employees' Retirement System of Georgia; Board of Trustees; include a qualified Roth contribution program in compensation plans

Howard Maxwell

Effective date July 1, 2017

HB 312 amends Article 2 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to deferred compensation plans, so as to authorize the Board of Trustees of the

Employees' Retirement System of Georgia to include a qualified Roth contribution program in state and local deferred compensation plans.

Per IRS "FAQs": "A [designated Roth account](#) is a separate account in a 401(k), 403(b) or governmental 457(b) plan that holds designated Roth contributions. The amount contributed to a designated Roth account is includible in gross income in the year of the contribution, but eligible distributions from the account (including earnings) are generally tax-free. [ERS] must separately account for all contributions, gains and losses to this designated Roth account until this account balance is completely distributed."

The bill contains no additional "employee or employer" mandates, but rather authorizes ERS to provide an additional investment vehicle for employees in planning for retirement.

<http://www.legis.ga.gov/Legislation/20172018/170603.pdf>

HB 320 Motor vehicles; installation or reinstallation of object in lieu of air bag; change provisions

Bill Hitchens

Effective date July 1, 2017

HB 320 amends OCGA § 16-9-111 (related to installation of objects other than air bags) to provide clear definitions of "air bag," "counterfeit air bag", and "nonfunctional air bag" and to specify that this code section makes it illegal to import, manufacture, sell, offer for sale, install or reinstall any counterfeit air bag or nonfunctional air bag or any device that misleads a vehicle's diagnostic system to ascertain that the air bag is functional when it is not. Punishment for this offense remains a high and aggravated misdemeanor.

<http://www.legis.ga.gov/Legislation/20172018/168989.pdf>

HB 328 Highways; uniform rules of the road; provisions

Sam Watson

Effective date July 1, 2017

HB 328 amends code sections related to certain traffic situations.

- Allows the maximum vehicle length for truck/trailer combinations (100 ft) to include a rear overhang of up to six feet. (Current law allows four feet of rear overhang.)
- For vehicles utilizing idle reduction technology, the maximum penalty reduction load limit is increased from 400 lbs. to 550 lbs. for violations of OCGA § 32-6-26.
- Grants authority to the Department of Transportation to determine the hours of usage of FlexAuto lanes and eliminates entirely the prohibition of the establishment of FlexAuto lanes at more than 80 separate locations. (Current law limits use of an individual lane to 8 hours a day and a maximum of 80 separate locations.)
- Adds the word "circular" to the definitions of flashing red and yellow signals under OCGA § 40-6-23.
- Changes the word "inoperative" related to traffic signals to "unactivated dark mode" for purpose of requiring vehicles to stop as though a stop sign were present in OCGA § 40-6-70.

<http://www.legis.ga.gov/Legislation/20172018/168990.pdf>

HB 341 Crimes and offenses; mandatory terms for trafficking individuals for sexual servitude; provisions

Albert Reeves

Effective date July 1, 2017

HB 341 makes Human Trafficking a crime to "subject an individual", "recruit an individual", or "solicit" an individual for the purpose of sexual servitude and increases the penalties. A person who violates paragraph (1) or (2) of subsection (c) shall be punished by imprisonment for 10 to 20 years. A person who violates paragraph (1) or (2) of subsection (c) if committed against an individual under 18 and individual under 18 years was coerced or deceived or committed against an individual who has a developmental disability, imprisonment for 25 to 50 years or life imprisonment. And a person who violates paragraph (3) of subsection (c) shall be guilty of a felony. When the offense is committed against an individual 16 or 17 years of age, upon conviction, imprisonment for 5 to 20 years. When the offense is committed against an individual younger than 16 years or an individual known to have a developmental disability, imprisonment for 10 to 20 years.

The Model Notice for the Human Trafficking Hotline is now required to provide information to give individuals a method to contact the National Human Trafficking Hotline and the Statewide Georgia Hotline for Domestic Minor Trafficking.

Penalties for 16-6-10 (KEEPING PLACE OF PROSTITUTION), 16-6-11 (PIMPING) and 16-6-12 (PANDERING) are increased and punished as misdemeanors of high and aggravated nature. Additionally, the sentencing judge has the discretion to require mandatory jail time of 24 hours for any sentence.

Offenders convicted of O.C.G.A. § 16-12-100, Sexual Exploitation of Children, will be subject to the sentencing and punishment provisions of 17-10-6.2 unless subject to provisions of paragraph (2) and (3) of subsection (f) of 16-12-100.

When a court imposes consecutive sentences for sexual offenses, the requirement that the court impose a probated sentence of at least one year only applies to the final consecutive sentence imposed.

<http://www.legis.ga.gov/Legislation/20172018/170169.pdf>

HB 343 Criminal procedure; certain outdated terminology; replace

Scott Hilton

Effective date July 1, 2017

Effective in trials after July 1, 2017, HB 343 would replace the term "mental retardation" with the term "intellectual disability" in the GA code. It would specifically amend OCGA 17-7-131 and replace the term "mental retardation" with "intellectual disability" but would keep the current definition of MR the same as it is defined now.

<http://www.legis.ga.gov/Legislation/20172018/170672.pdf>

HB 391 Safe Place for Newborns Act of 2002; revise provisions

David Clark

Effective date July 1, 2017

A mother will not be prosecuted for violating 16-5-70, 16-12-1, or 19-10-1 because of the act of leaving her newborn child in the physical custody of an employee, agent, or member of the staff of a fire station, or police station who is on duty, provided that child is no more than 30 days old and the mother shows proof of her identity, if willing, to the person with whom newborn is left and provides her name and address, if willing.

<http://www.legis.ga.gov/Legislation/20172018/168996.pdf>

HB 452 Georgia Bureau of Investigation; publicly post certain information to extent permitted by federal law; require

Jesse Petrea

Effective date July 1, 2017

HB 452 creates the crime of Domestic Terrorism which is any felony violation of, or attempt to commit a felony violation which, as part of a single unlawful act or a series of unlawful acts interrelated by distinguishing characteristics, is intended to cause serious bodily harm, kill any individual or group of individuals, or disable or destroy critical infrastructure, a state or government facility, or a public transportation system when such disability or destruction results in major economic loss, and is intended to: (A) Intimidate the civilian population or political subdivisions; (B) Alter, change, or coerce the policy of state government or any of its political subdivisions by intimidation or coercion; or (C) Affect the conduct of state government or any of its political subdivisions by use of destructive devices, assassination, or kidnapping. Critical infrastructure, public transportation system, serious bodily harm, and State or government facility are specifically defined. Domestic Terrorism is punished as follows: (1) If death results to any person, death, life without parole, or imprisonment for life; (2) If kidnapping occurs, imprisonment for 15 to 35 years, or imprisonment for life; (3) If serious bodily harm occurs, imprisonment for 15 to 35 years; or (4) If critical infrastructure, a state or government facility, or a public transportation system is disabled or destroyed, imprisonment for 5 to 35 years. (b) No sentence imposed shall be suspended, stayed, probated, deferred, or withheld by the court; however, in the court's discretion, the court may suspend, stay, probate, defer, or withhold part of such sentence when the prosecuting attorney and the defendant have agreed to such sentence.

The Attorney General and the District Attorneys have concurrent jurisdiction to prosecute Domestic Terrorism cases and the cases can be prosecuted in Georgia even if the person was not in Georgia but their actions harmed a person or critical infrastructure, a government facility, or a public transportation system in Georgia.

O.C.G.A. § 16-7-80 is revised to provide broader definitions for bacterial weapon, biological weapon, biological agent, toxin, and vector.

Finally, to the extent permitted by federal law, the GBI will post on its public website information regarding persons who are aliens and who have been released from federal custody within the state, as information is presented within the Law Enforcement Notification System of the Enforcement Integrated Database of the US Dept. of Homeland Security or the National Law Enforcement Telecommunications System as received by the Georgia Information Sharing and Analysis Center within the GBI. Within 12 hours of receiving information, GBI will post information and electronically send a copy of information to the Georgia Sheriffs Association. GBI to promulgate rules and regulations for the implementation.

<http://www.legis.ga.gov/Legislation/20172018/170729.pdf>

HB 453 County law library; board of trustees; add chief judge of magistrate court

David Dreyer

Effective date July 1, 2017

HB 453 adds the Chief Magistrate Judge to the board of trustees for the local law library.

<http://www.legis.ga.gov/Legislation/20172018/169712.pdf>

HB 472 Motor vehicles and traffic; following requirements for vehicles in a procession when speed is coordinated automatically; provide exception

James Epps

Effective date July 1, 2017

HB 472 adds a new subsection to OCGA § 40-6-49 - Following Too Closely. New subsection (e) exempts from the Following Too Closely statute the operators of non-leading vehicles that are traveling in group of motor vehicles, in the same lane, and using "vehicle-to-vehicle communication technology" to automatically coordinate the movement of the vehicles.

<http://www.legis.ga.gov/Legislation/20172018/170675.pdf>

HB 481 Aviation; unmanned aircraft systems; provide for preemption

Kevin Tanner

Effective date July 1, 2017

HB 481 creates O.C.G.A. § 6-1-4 regarding aviation. It provides that any ordinance, resolution, regulation or policy of a county, municipality or other political subdivision regulating the use of "unmanned aircraft systems" (a defined term) is preempted and null, void, and of no force and effect, if it is adopted after April 1, 2017. However, ordinances may be adopted to enforce FAA restrictions and to provide for, or prohibit the launch, recovery or intentional landing of unmanned aircraft from or on its public property, except with respect to the operation of an unmanned aircraft system for commercial purposes. Also, the State, through agency or departmental rules and regulations may provide for, or prohibit the takeoff, recovery or use of an unmanned aircraft system from or on its public property.

<http://www.legis.ga.gov/Legislation/20172018/170216.pdf>

HB 485 Distilled spirits; referendum election be held prior to issuance of licenses to manufacture; remove requirement

Mike Glanton

Effective date May 9, 2017

HB 485 amends OCGA Title 3 - Alcoholic Beverages - to remove the requirement that a referendum election be held prior to the issuance of licenses for the manufacture or distribution

of distilled spirits; to change certain provisions relating to the procedures for calling and conducting referendum elections and nullifications thereof, as follows:

The commissioner of revenue is allowed to issue licenses for the manufacture or distribution of distilled spirits in any county or city where such licenses have been authorized by resolution. The government of any such county or city has the authority to determine the location of any business so licensed. If a majority of voters approve of the issuance of licenses, then the package sale of distilled spirits shall be permitted at the expiration of 15 days from the certification of the election results. If the referendum fails to win majority support, then licenses shall not be issued for that political subdivision. A referendum to repeal a previous approval of the issuance of distilled spirits licenses is authorized and if a repeal referendum is approved by a majority of voters, no new licenses shall be issued and any existing licenses shall be prohibited from renewal effective upon the expiration of the existing license.

<http://www.legis.ga.gov/Legislation/20172018/170610.pdf>

HB 572 Chatham County; Recorder's Court; revise responsibilities of chief judge; provisions

Ron Stephens

Effective date May 4, 2017

HB 572 amends the act providing for a chief judge for the Recorder's Court of Chatham County by revising the responsibilities and method of selection for the chief judge; and provides for a court administrator for the Chatham County Recorder's Court.

- The chief judge shall act as the head of the court in official functions, consult with the court administrator in preparing an annual budget that must be submitted to the managers of the City of Savannah and Chatham County, submit an annual report on the court's operations to the Savannah and Chatham County electeds, consult with the city and county manager in hiring and termination of a court administrator, and other duties required by law. The current chief judge retains the seat. Thereafter, the chief judge will be elected from and by the seated recorder's court judges.
- The court administrator (CA) will be an employee of the City of Savannah and will report to the city manager, provided the city funds at least one-half of the court's operational costs. If the city does not meet that funding level, the CA will become an employee of the county and report to the county manager. The CA will be responsible

for hiring, supervising and disciplining employees, and for the operation of the court as outlined. The CA will also keep the city manager and the judges apprised of court operations via requested reports, consult with the judges on the preparation of the annual budget, and other duties as assigned by the city or county manager. The CA shall be bonded in the amount of 100k and the court will cover the cost of the premium. All court employees will be employees of the City of Savannah.

- The judges of the court are authorized to adopt rules, policies, or regulations upon a majority vote of the judges seated so long as no rule, policy, or regulation adopted violates the powers and duties outlined in law.
- All pro tempore judges shall be appointed by a majority vote of both the board of commissioners of Chatham County and the city council of the City of Savannah

<http://www.legis.ga.gov/Legislation/20172018/169005.pdf>

HB 573 Cook County; Probate Court; judge shall have jurisdiction to try misdemeanor cases where defendant waives jury trial and pleads guilty; provide

Penny Houston

Effective date July 1, 2017

HB 573 authorizes the Probate Judge of Cook County to try any misdemeanor cases where the defendant waives a jury trial and pleads guilty. Only applies to misdemeanors made in the county and not already in the jurisdiction of the magistrate court

<http://www.legis.ga.gov/Legislation/20172018/170222.pdf>

SB 15 Crimes and Offenses; weapons carry license; add to the category of former law enforcement officers

Michael Rhett

Effective date July 1, 2017

SB 15 adds language to “licenses for former law enforcement officers” under 16-11-129. Adds an application fee waiver for officers who have had 10 years and left as a result of disability in the line of duty. In addition to time served with retirement or disability, any former law enforcement that qualifies under this section must leave in good standing and receive benefits

under the Peace Officer's Annuity and Benefit Fund or from other governmental retirement systems.

<http://www.legis.ga.gov/Legislation/20172018/169690.pdf>

SB 16 Low THC Oil; definition; provisions relating to conditions eligible for use; change

Ben Watson

Effective date July 1, 2017

SB 16 changes the parameters of Georgia's law relating to legal use of Low-THC Oils for certain medical conditions. Anyone possessing low-THC oils is required to keep it in a container that indicates the THC content of the oils. In addition, registry cards from other states that allow low-THC oils that are legal in Georgia will be good in Georgia for up to 45 days after the person arrives.

A number of conditions are added to the list of those that qualify for the registry:

- Tourette's syndrome, when diagnosed as severe;
- Autism spectrum disorder - any diagnosis will qualify a patient over 18, patients under 18 qualify if diagnosed with "severe autism"
- Epidermolysis bullosa (a rare genetic condition that causes, among other things, extremely fragile skin that easily blisters and tears.)
- Alzheimer's disease, when diagnosed as severe or end state
- AIDS, when diagnosed as severe or end stage;
- Peripheral neuropathy, when diagnosed as severe or end state; or
- Is an inpatient or outpatient in a hospice program

The requirement that patients must reside in Georgia for at least one year before being eligible for the registry is removed. Physicians' reports - formerly required to be made quarterly, will now be semi-annual, and will require reporting of THC or THC acid present in any test results, in addition to the current requirements.

<http://www.legis.ga.gov/Legislation/20172018/170462.pdf>

SB 18 Georgia Public Safety Training Center; any member of security police force; retain his/her weapon and badge under certain conditions

Tyler Harper

Effective date July 1, 2017

SB 18 amends OCGA 16-11-130, relating to firearms exemptions, making minor editorial changes [changing "that" to "who"] and it adds a new (5). This new section specifically exempts from firearms carry regulations Georgia citizens who are retired law enforcement officers with at least 10 years of aggregate state and federal service, who separated from their agencies in good standing, and who possesses a retired law enforcement ID card or qualifies to receive one. It also includes new language that members and retired former members of the State Patrol and the GBI are exempt as well. The second section of SB 18 amends OCGA 35-1-20, relating to retention of weapons by retired officers, by adding new language that agencies who are state entities and who employ sworn law enforcement officers can adopt rules by which those officers who honorably separate via retirement or disability can keep their weapons.

<http://www.legis.ga.gov/Legislation/20172018/169690.pdf>

SB 52 Mental Health; authorizing licensed professional counselor; sunset provision; repeal

P.K. Martin

Effective date July 1, 2017

SB52 repeals the sunset provision of SB65 (adopted and modifying OCGA 37-3-41 in 2014) which was set to automatically stand repealed on March 15, 2015. Therefore, Georgia would still have laws on the books that would authorize the involuntary treatment of mentally ill persons or people needing immediate drug and alcohol treatment.

<http://www.legis.ga.gov/Legislation/20172018/169260.pdf>

SB 85 **Malt Beverages; provide for limited sale at retail by manufacturers**

Rick Jeffares

Effective date September 1, 2017

SB 85 is an act that relates to manufacturers of certain alcoholic beverages being allowed to sell their product on their premises.

A "barrel" is now defined as 53 gallons of distilled spirits or 31 gallons of malt beverages. Distillers/manufactures no longer have to give educational or promotional tours upon being issued a permit by the Commissioner to have tastings. Licensed manufacturers of distilled spirits may now sell up to 500 barrels per year of their product on their premises. Licensed manufacturers of malt beverages may sell up to 3,000 barrels per year of their product on their premises. Holders of a "brew pub" license may sell wine or malt beverages if allowed by county or municipal resolution/ordinance.

<http://www.legis.ga.gov/Legislation/20172018/169260.pdf>

SB 88 **'Narcotic Treatment Programs Enforcement Act'**

Jeff Mullis

Effective date May 4, 2017

SB 0088 adds new article known as Narcotic Treatment Programs Enforcement Act. Minimum standards for quality and services in narcotic treatment programs and gives the Department of Community Health authority to create the rules for implementation and licensing the programs. An authority must have a license to operate a drug treatment program which can be accepted during the open enrollment period. The first open enrollment period will be December 2017. The application must follow rules set by the department and the statutory requirements. Licenses are generally non-transferrable, even for changes in location, and every location must be inspected every 36 months.

There is a grandfather provision for programs that applied for licenses prior to June 1, 2016. Each region is capped at 4 programs and the state is broken into regions, the same as judicial circuits. Programs cannot offer incentives for referrals or discounts. The department can require the program to provide treatment records on any patients, subject to redaction of identifying information.

The Department can close non-compliant programs down but must give 90 days' notice and comply with the Administrative Procedures Act.

<http://www.legis.ga.gov/Legislation/20172018/170544.pdf>

SB 95 Selection of Jurors; state-wide master jury list; change provisions; Georgia Crime Information Center; pardons and paroles; provide conforming cross-references

Jesse Stone

Effective date September 1, 2017

SB 95 would now require the Department of Drivers Services to provide the racial information, where available on data reported to the Council of Superior Court Clerks. Also, Department of Corrections shall now report the race of a felon who has had his rights restored, when available. Finally, the Supreme Court can establish rules for improvements of the lists.

<http://www.legis.ga.gov/Legislation/20172018/170554.pdf>

SB 96 Health; pronouncement of death by registered professional nurses; nursing homes and hospice care; authorize; county medical examiner's duties after notice of suspicious death; make a conforming change

Ben Watson

Effective date July 1, 2017

SB 96 would add nurse practitioners and physician assistants to the class of professionals who could pronounce the death of a patient in a nursing home or in hospice care. Furthermore, it would allow nurse practitioners and physician assistants immunity from liability, similar to doctors, when pronouncing death.

<http://www.legis.ga.gov/Legislation/20172018/168570.pdf>

SB 104 Kidnapping, False Imprisonment and Related Offenses; human trafficking hotline model notice in government buildings; require posting

Donzella James

Effective date varies (most July 1, 2017)

SB 104 can be broken down into 5 distinct criminal justice sections.

- The first section creates the crime of Hijacking a Vehicle in the 2nd degree. This new crime involves taking a vehicle from another without their consent or from their immediate presence. A first conviction is punishable by 1-10 years; a second by 3-15 years; and third and subsequent convictions are 5-20 years. "Vehicle" is removed from the second degree burglary statute but remains in first degree burglary.
- The second section requires the model notice on human trafficking and the hotline to be displayed in certain types of government buildings.
- The third section of the SB 104 makes it a felony punishable by 2-10 years for manufacturing, selling, or distributing counterfeit or false proof of insurance. Knowing possession of false proof of insurance documents is still a misdemeanor.
- The fourth part of SB 104 criminalizes using a device to observe or photograph underneath or through another clothing with the intent to view the intimate parts of another or their undergarments. The crime is a felony punishable by 1-5 years. There is an exception for law enforcement and businesses that have a warning sign and are using cameras to detect illegal activity.
- The final part of SB 104 removes listed compounds (fentanyl, its isomers, and "W", "MT" compounds and U-47700) from the weight based prosecutions. Trafficking statute now contains an exemption for persons who are authorized to possess the drugs or controlled substances. Possession of more than 4 grams will lead to trafficking charges. That part also contains the Fentanyl backbone, similar to what the GBI did last year with the Benzos. This specific provision (not including the trafficking part) is also found in HB 231. The Fentanyl provisions are effective on signature of the Governor. The remaining provisions go into effect on July 1, 2017.

<http://www.legis.ga.gov/Legislation/20172018/170710.pdf>

SB 106 Pain Management Clinics; health care professionals who must be on-site; revise a provision

Gregory Kirk

Effective date July 1, 2017

SB 106 amends O.C.G.A. § 43-34-283(g) by adding no controlled substance prescriptions can be distributed without physician or physician assistant being onsite but does not apply to a registered nurse anesthetist if the patient was previously seen by a physician and the physician issued an order for the patient to receive the services or consent is given by the patient prior to receiving treatment by registered nurse anesthetist.

<http://www.legis.ga.gov/Legislation/20172018/170616.pdf>

SB 121 "Jeffrey Dallas Gay, Jr., Act"

Butch Miller

Effective date April 18, 2017

SB 121 exempts Naloxone when used for overdose prevention in one of four forms supplied by dispenser. Certain licensed health providers (pharmacists, medical practitioners) are given immunity from prosecution when prescribing "opioid antagonists." It also creates the office of state health officer and gives them the right to issue a standing order to give certain entities the right to obtain opioid antagonists under certain conditions. Pharmacy must keep complete records of every opioid antagonist dispensed.

<http://www.legis.ga.gov/Legislation/20172018/170623.pdf>

SB 128 Drivers' Licenses; Department of Natural Resources; limited purposes; allow for the sharing of personal data

Rick Jeffares

Effective date July 1, 2017

SB 128 amends O.C.G.A. § 40-5-2 (d)(1) and 40-5-2 (f) add language specifically authorizing DDS to share records with DNR to assist in detection & prevention of fraud in applications for licenses/permits/registration, to confirm residency of applications, and to fulfill obligations under the Child Support Recovery Act.

<http://www.legis.ga.gov/Legislation/20172018/168985.pdf>

SB 132 Civil Practice; statutory civil case filing and disposition forms; allow Judicial Council of Georgia to promulgate forms; child custody proceedings; provide

Blake Tillery

Effective date January 1, 2018

SB 132 primarily amends O.C.G.A. § 9-11-133 by deleting the civil case (initiation and disposition) and domestic relations (initiation and disposition) forms and provides that the Judicial Council of GA, with the approval of the Supreme Court, shall promulgate the forms. The Act also amends other Code Sections to conform with this requirement. Additionally, O.C.G.A. § 15-5-24(4), relating to the duties of Administrative Office of the Courts is amended to provide that it shall analyze data relating to civil cases on or before October 1 each year and adds that this report must go to the chairpersons of the Senate Judiciary Committee and the House Committee on Judiciary. Amends O.C.G.A. §§ 15-6-61(a)(17) and 15-7-50(2) to provide that clerks of the superior and state courts shall file civil case filing and disposition forms and transmit the data contained on the forms to the Administrative Office of the Courts

<http://www.legis.ga.gov/Legislation/20172018/170661.pdf>

SB 137 Child Support Recovery Act; federal Deficit Reduction Act of 2005; require the obligor to pay the full fee

Gregory Kirk

Effective date October 1, 2017

SB 137 amends OCGA 19-11-6 and OCGA 19-11-8, relating to enforcement of child support payments and support for abandoned minor public assistance recipients, by striking the \$12 yearly fee and increasing it to \$25. Collection can be made by any legal means.

<http://www.legis.ga.gov/Legislation/20172018/170668.pdf>

SB 149 School Resource Officers; training requirements; provide

Emanuel Jones

Effective date July 1, 2017

SB 149 amends training for school resource officers, largely bans tobacco possession in penal systems, and specifies municipal probation officer arrest powers.

- First, POST will maintain non-mandatory 40-hour school resource course for anyone appointed or assigned as a school resource officer.
- Second, municipal probation officer arrest power is specified to arrest individuals whom he or she is supervising, unless the municipal probation officer is a certified peace officer by POST.
- Third, 'inmate' is defined and new crimes prohibiting new types of contraband in prison are added. Unless authorized by the 'jailer' or warden/superintendent, a person cannot obtain tobacco for another in prison and cannot possess tobacco or tobacco products. In addition, it will be unlawful for an inmate to obtain or possess a 'stored value card' or the personal identification of a 'stored value card.' These new crimes are felonies punishable by 1-10 years in prison unless the judge imposes a misdemeanor under O.C.G.A. § 17-10-5.

<http://www.legis.ga.gov/Legislation/20172018/170725.pdf>

SB 160

"Back the Badge Act of 2017"

Tyler Harper

Effective date July 1, 2017

SB 160 is "Back the Badge Act of 2017" which provides for increased punishments against "public safety officers." The bill adds new code section O.C.G.A. § 16-5-19, which serves to define "public safety officer" and transfer definitions already located in the aggravated assault/battery statutes. Aggravated assault (§16-5-21) is amended to include "public safety officer" and provides fact dependent sentences with mandatory minimums that cannot be stayed, probated, deferred, or withheld by the sentencing court unless both the prosecutor and defense have agreed to a sentence that is below the mandatory minimum. (Unless the assault involves the "use of the person's body") Upon conviction, a minimum fine of \$2,000 will be collected for the Georgia State Indemnification Fund for death and disability. Aggravated battery (§16-5-24) integrates the definition and mandatory minimums along with the same fine.

The Juvenile Code is amended by cross reference via definitions (15-11-2), jurisdiction (15-11-560), jurisdictional transfer (15-11-561), and transfer criteria (15-11-562) to allow a superior court the discretion to transfer cases back to juvenile court and to clarify the definitions of a class A or class B designated felony act in light of the jurisdictional changes.

Obstruction (§16-10-24) is amended to include obstruction against a prison guard, jailer, correctional officer, community supervision officer, or Dept. of Juvenile Justice probation officer while in the lawful discharge of his or her duties. There are enhance penalties based on the number of convictions. In addition, there is a separate offense of obstruction by discharge “expelling human or animal blood, urine, feces, vomitus, or seminal fluid” which provides a felony 1-5 sentence. A \$300 fine will be imposed upon conviction and collected for the Georgia State Indemnification fund for death and disability.

Indemnity in case of death or organic brain damage amounts are increased from 100,000 to 150,000 in 45-9-85.

<http://www.legis.ga.gov/Legislation/20172018/170731.pdf>

SB 168 Child Abuse; permitted to access child abuse records by department, or county, or other state or local agency; extend; Central Child Abuse Registry; permit access

Butch Miller

Effective date July 1, 2017

SB 168 amends 49-5-41, and permits access to records concerning reports of child abuse and release of information from such records when deemed appropriate by the DFCS/DHR to: 1) licensed adoption agency which is placing a child for adoption; 2) Certified Court appointed Special Advocates and 3) local/state law enforcement agencies, Department of Community Supervision, Department of Corrections, and Department of Juvenile Justice when such are providing supervision or services to individuals and families to whom DFCS is also providing services, except when access or release is prohibited by federal law or regulation.

Amends 49-5-185, relating to access to information in Central Child Abuse Registry, access granted to:1) any federal, federally recognized tribal, state, or local government entity investigating or responding to a report of possible child abuse; 2) any federal, federally recognized tribal, state, or local government entity or any agent of such government entity requesting information concerning any prospective foster or adoptive parent or adult living in home of prospective foster or adoptive parent, information will be provided and used solely for purpose of conducting background checks of prospective foster or adoptive parents; and 3) any in state child-placing agency licensed to place children in foster homes or for adoption requesting information concerning any prospective foster or adoptive parent, information will be provided and used solely for purpose of conducting background checks of foster parents or

adoptive parents and, 4) any entity licensed by another state to place children for adoption which information shall be provided at the discretion of DFCS/DHR and used solely for the purpose of conducting background checks on adoptive parents or prospective adoptive parents.

<http://www.legis.ga.gov/Legislation/20172018/170738.pdf>

SB 169 Specialty License Plate; honoring law enforcement; establish

Gregory Kirk

Effective date July 1, 2017

SB 169 is an act that amends code section 40-2-86, related to special license plates, to allow for a license plate honoring peace officers, with the phrase "back the blue" across the bottom. Fees for these plates shall be disbursed to the Peace Officers Annuity and Benefit Fund -Effective 7/1/17.

<http://www.legis.ga.gov/Legislation/20172018/168787.pdf>

SB 174 Georgia Council on Criminal Justice Reform; reform for individuals supervised under accountability courts; provide

John Kennedy

Effective date July 1, 2017

SB 174 is the first of the Criminal Justice Reform bills.

- SB 174 revises 15-1-17, Veterans Court Divisions, Council of Accountability Court Judges to provide technical assistance to veterans court divisions to assist with implementation of policies and practices. The Council of Accountability Court Judges to create and manage a certification and peer review process for veterans court to ensure adherence to Council of Accountability Court standards and practices. On and after July 1, 2017, the award of any state funds for veterans court conditioned upon a veterans court division attaining certification or a waiver by the Council of Accountability Court Judges of Georgia. Provides for creation of Family Treatment Court divisions.
- Revises subsection (a) of 49-3-6, relating to functions of county or district DFCS by permitting collaboration with the family treatment court division planning group, if one

exists, establish a written protocol to assess cases involving substantiated reports of abuse or neglect for possible referral to a family treatment court division.

- Revises 17-10-1, relating to fixing of sentence, as follows: When defendant is convicted of felony offenses, has no prior felony conviction, and court imposes a sentence of probation, not to include a split sentence, the court shall include a behavioral incentive date in its sentencing order that does not exceed three years from date such sentence is imposed. Within 60 days of the expiration of incentive date, if the defendant has not been arrested for anything other than a non-serious traffic offense as defined in 35-3-37, has been compliant with the general and special conditions of probation imposed, and has paid all restitution owed, the Department of Community Supervision shall notify the prosecuting attorney and the court of such facts. The Department of Community Supervision shall provide the court with an order to terminate defendant's probation which the court shall execute unless the court or the prosecuting attorney requests a hearing within 30 days of receipt of such order. The court to take whatever action it determines would be for the best interest of justice and the welfare of society.
- Revises 42-3-2, creates the Board of Community Supervision and outlines its duties and powers.
- Revises 42-5-36 provides that "Serious offense" shall have the same meaning as set forth in 42-9-42 and "Serious violent felony" shall have the same meaning as set forth in 17-10-6.1. Requires commissioner of DOC to prepare a report of the conduct of record of any inmate serving a sentence for a serious violent felony. When the report includes conduct which would constitute a serious offense, reasonably related information connected to such offense shall be included in the report. Such report shall be subject to disclosure under paragraph (2) of subsection (a) of 42-9-43.
- Amends 42-8-21 by adding a new paragraph, relating to definitions for use by the state-wide probation system. A definition is provided for the term "Qualified Offense" listing numerous felonies.
- Revises 42-8-27, relating to the duties of community supervision officers, by authorizing them to provide supervision of defendants who are participants in a drug court division, mental health court division, or veterans court division operated by a superior court, provided that sufficient staff and resources exist for such supervision.
- Revises 42-8-34(e), relating to Sentencing Hearings and Determinations, now the court may require payment of a fine, fees, or restitution as condition of probation. When probation supervision required, court may require payment of probation supervision fee as a condition of probation. Other than for restitution, sets out considerations for court when determining defendant's financial obligation. Court may convert fines, statutory surcharges and probation supervision fees to community service. Court may

convert, waive or modify fines, surcharges, supervision fees if finds defendant has significant financial hardship. Unless rebutted by Preponderance of Evidence, presumption exists that defendant has significant financial hardship when: has developmental disability; permanently disabled; is indigent; and released from jail within preceding 12 months and was in prison for more than 30 days before release.

- Revises Code Section 42-8-37, relating to Effect of Termination of Probated Portion of Sentence and Review, case of each person receiving a probated sentence of three years or more shall be reviewed after service of three years on probation, and a written report of probationer's progress submitted to sentencing court along with recommendation as to early termination. Provides what the report must contain. Permits Retroactive application, applies to any case where D given more than 3 years' probation. When probationer is on probation for a "Qualified Offense", as defined in 42-8-21, DCS shall file a petition to terminate probation if, after serving 3 years on probation, person has completed certain requirements. Retroactive and applied to anyone under DCS supervision.
- Revises 42-9-42, person who is paroled shall be released on terms and conditions as the BOPP shall prescribe, and if person serving a split sentence, the board's conditions shall include all terms of probation imposed by sentencing court. If parolee or conditional releasee violates terms of parole or conditional release, shall be subject to being placed in any Department of Corrections facility, including a probation detention center, not to exceed 180 days, or in a residential substance abuse treatment facility, as defined in 42-8-111. Does not limit or restrict authority of commissioner of corrections in making custodial assignments.
- Revises 42-9-43, relating to information to be considered by BOPP generally, conduct of investigation and examination, and determination. When reviewing case for relief, BOPP must review the Department of Correction's summary of the conduct of record of person serving a sentence for a serious violent felony. BOPP must consider written statements or oral testimony, if any, of district attorney of circuit in which person was sentenced expressing views and making any recommendation as to parole, conditional release, a pardon for a serious offense, or commutation of a death sentence. BOPP must consider written, oral, audio, video testimony of victim/representatives, if any, for purpose of BOPP consideration of parole, conditional release, a pardon or commutation of a death sentence, if victim has provided it. BOPP shall give at least 90 days' advance written notice to DA prior to making a final decision on parole or conditional release for a person sentenced for a serious violent felony, and will provide DA an opportunity to submit information and file written objection and shall provide the defendant an opportunity to submit information. Before releasing any person on parole or conditional

release, granting a pardon, or commuting a death sentence, when objections to relief raised, the board may hold a hearing and consider oral testimony. If BOPP holds hearing, shall provide the DA 30 days' notice via e-mail of hearing date and DA may attend hearing and present evidence. If defendant serving split sentence the BOPP's conditions must include the sentencing court's terms of probation.

- Revises 42-9-44, relating to terms and conditions of parole, the board, upon placing a person on parole or conditional release will specify in writing terms and conditions, and if such person is serving a split sentence, the board's conditions will include all of the terms of probation imposed by sentencing court.
- Revises 42-9-46, relating to inmates who have not served time required for automatic parole consideration, BOPP required to give DA, sentencing court and victim written notice 10 days prior to early consideration and the notice must give a time frame in which they may file an objection to early parole consideration. DA, sentencing court and victim must be given notice of hearing date, if hearing to be held, they will be permitted to express their views and make recommendations whether inmate should be granted early parole. If an objection was filed and BOPP grants early parole, BOPP to issue statement explaining reason for grant of relief and to be served on all objecting parties.
- Revises 42-9-52, when a parolee or conditional releasee is serving a split sentence for a "Qualified Offense", as defined in 42-8-21, the board shall review such case after parolee or conditional releasee has successfully completed 12 consecutive months of parole supervision to consider commutation of such sentence.
- New Code section 42-9-61. After board provides notice of making a final decision on parole or conditional release as required by 42-9-43, both DA and person being considered for relief may make a written request for the report set forth in 42-9-43 and the board will promptly provide report as well as any other information the board has declassified. The disclosure of the report set forth in 42-9-43 will not vitiate the confidential nature of report and report is not subject to disclosure under Article 4 of Chapter 18 of Title 50.

<http://www.legis.ga.gov/Legislation/20172018/168787.pdf>

SB 175

Juvenile Code; juvenile court proceedings; enact reforms

John Kennedy

Effective date July 1, 2017

The Second of the Criminal Justice Reform bills focuses on juvenile court reforms:

- Creates a new OCGA 15-11-29.1 that allows a juvenile court judge to issue an order directing the CHINS/delinquent's parents to answer for their failure to supervise the juvenile. It's akin to civil contempt but the statute does not provide for monetary fines or jailing as a sanction. There is a list of 14 actions in the statute that the court can require of the parents. The motion can be made by the court itself, the prosecutor, or a party to the child's case plan [DJJ, probation officer - definitely, non-governmental service provider, ie, Big Brother Big Sister, YMCA - possibly]. There is a due process requirement. OCGA 15-11-39, 15-11-442, and 15-11-602 are amended to allow for these orders.
- SB 175 amends OCGA 15-11-563, relating to competency evaluations, to provide that if a mental health examiner determines that a child is incompetent to proceed, the examiner must provide a recommendation as to the least restrictive setting [i.e., not jail] where services can be effectively administered, and whether consideration should be given to secure or non-secure detention.
- SB 175 amends OCGA 15-11-656, relating to dispositions on incompetent juveniles, by removing DBHDD's authority to place the child if the child is found developmentally delayed enough to be civilly committed. The statute is also amended to provide that the court shall make the determination of least restrictive custody on incompetent juveniles upon a finding by clear and convincing evidence that detention is required to reduce the likelihood of serious bodily harm to others, protection of property, or the secure the child's attendance at court. If a child is found incompetent, they cannot be held in a residential facility beyond the maximum time allowed for the designated felony they were adjudicated on, i.e., 60 months for class A, 36 months for class B.

<http://www.legis.ga.gov/Legislation/20172018/169683.pdf>

SB 176 Georgia Council on Criminal Justice Reform; driving privileges; enact reforms

John Kennedy

Effective date July 1, 2017

The third of the criminal justice reform bills focuses on driving issues:

- SB 176 first amends OCGA § 17-6-11 by updating and re-working the language of subsection (a), but deleting from it (a)(5) (commercial vehicle or driver safety) and (a)(7) (motor carrier insurance or registration). New subsection (b) provides that if the accused fails to appear on a Uniform Traffic Citation (UTC), prior to issuing a bench warrant, the accused shall be sent a dated notice by the clerk of court giving the accused 30 days

to dispose of the charges or waive arraignment and plead not guilty. If the accused fails to dispose of the charges or waive arraignment and plead not guilty, the clerk shall, within five (5) days, notify DDS which shall suspend the driver's license until notified by the clerk that charges have been finally adjudicated and the defendant submits proof to DDS with a restoration fee.

- O.C.G.A. § 17-7-90 is amended by re-writing and updating the language of the Code section. It is principally amended to reflect the changes made above in OCGA § 17-6-11, including adding new paragraph (a)(4) which provides that a bench warrant may be issued for an individual who fails to dispose of his or her charges and waive arraignment and plead not guilty after the expiration of the 30-day period.
- OCGA § 40-5-58 relating to habitual offenders and probationary licenses is amended by deleting subparagraph (e)(1)(D), which provided that a probationary license could not be obtained if the person had been convicted or pled nolo contendere to a violation of Title 3, relating to alcoholic beverages, or VGCSA.
- OCGA § 40-5-75 (l) and (g) relating to suspension of drivers' licenses by operation of law are amended. Paragraph (l)(3) is amended to clarify that upon a third conviction in five years, the "person shall be considered a habitual violator, and such person's license shall be revoked as provided for in Code Section 40-5-58." The paragraph is also amended to delete the language providing that a person may seek a three year driving permit and all the conditions precedent to obtaining such a permit. Subsection (g) is amended by adding new subparagraph (g)(1)(B) to provide that effective July 1, the department shall be authorized to reinstate, instantaneously, a driver's license that was suspended pursuant to this Code section for a violation of Article 1 of Chapter 13 of Title 16 that occurred prior to July 1, 2015, provided that the license has not been previously reinstated. But, the provisions of this new subparagraph shall not apply to a suspension imposed pursuant to this Code section or for a violation of OCGA §40-6-391(a)(2, 4 or 6) that occurred prior to July 1, 2015 unless ordered by a judge presiding in an accountability court or DUI court in accordance with §40-5-76 (a).

<http://www.legis.ga.gov/Legislation/20172018/170771.pdf>

SB 219 Motor Vehicles; definitions; operation of motor vehicles with automated driving systems on certain public roads; provide

Steve Gooch

Effective date July 1, 2017

SB 219, as passed, is an act that addresses autonomous vehicles in Georgia:

- Section 1 adds definitions of relevant terms - "automated driving system", "dynamic driving task", "fully autonomous vehicle," "minimal risk condition," and "operational design domain." It also amends the definition of "operator" to include a person who causes an automated motor vehicle to move with an ADS system engaged.
- Section 2 amends Code Section 40-5-21 to include automated motor vehicles with ADS engaged an exemption from the driver's license requirements.
- Section 3 adds two new code sections: -
 - 40-6-279 deems the requirements of reporting a crash, as outlined in 40-6-270 through 40-6-273.1 to be satisfied by an automated vehicle if the vehicle remains on scene and either the vehicle or the operator contacts law enforcement.
 - 40-8-11 allows for the following:
 - Automated motor vehicles with ADS engaged may operate without a human driver present, provided:
 - the vehicle is capable of complying with rules of the road, and is certified by the manufacturer as meeting federal safety standards;
 - Can meet requirements of 40-6-279;
 - Can achieve a "minimal risk condition" (such as safely coming to a complete stop) upon any failure of the ADS system.;
 - Has adequate liability coverage. (250% of the amounts specified in 40-1-166 until 1/1/20; the amounts specified in 40-1-166 afterwards;
 - Vehicle is properly registered under Code Section 40-2-20 and identified as an autonomous vehicle.
 - Compliance with seat belt/child restraint rules are the responsibility of human occupants and do not apply to automated vehicles.
 - Provides that this code section, 40-1-1, 40-5-21, and Chapter 6 exclusively governs automated motor vehicles unless otherwise provided for.

<http://www.legis.ga.gov/Legislation/20172018/170801.pdf>

SB 226 Alcoholic Beverages; regulations; provisions; annual production requirements for Georgia farm wineries; change

Butch Miller

Effective date May 9, 2017

As passed, SB 226 allows farm winery licensees to receive shipments of up to 40% of their annual production from out of state. (Previous law limited such shipments to 20%).

<http://www.legis.ga.gov/Legislation/20172018/169711.pdf>

SB 250 State Sexual Offender Registry; individual is convicted in another country; require registration

Jeff Mullis

Effective date July 1, 2017

SB 250 makes it unlawful for any individual or for any person who is or should be registered on another state's sexual offender registry to loiter at any child care facility, school, or area where minors congregate in the State of Georgia.

<http://www.legis.ga.gov/Legislation/20172018/170828.pdf>

SB 258 Eligibility and Qualifications for Office; ineligibility for office for holders of public money of municipalities who refuse; pay over such funds to proper office; provide

Blake Tillery

Effective date May 8, 2017

SB 258 amends OCGA 45-2-1, relating to persons ineligible to hold civil office, by adding municipalities to the current language [state and county only] applying to holders and receivers of public money who fail to account for it. The act is effective upon approval of the Governor or upon becoming law without approval.

<http://www.legis.ga.gov/Legislation/20172018/170810.pdf>

Part 2 – Bills vetoed by the Governor

SB 125 *Physician Assistants; authority to prescribe hydrocodone compound products; authorize a physician to delegate to a physician assistant*

Rick Jeffares

Effective date July 1, 2017

SB 125 amends O.C.G.A. § 43-34-105 by giving physician assistants the authority to prescribe hydrocodone compound products. Gives a physician the right to authorize a physician assistant to prescribe a hydrocodone compound product as long as the order does not exceed a five-day supply of 30 tablets or 300mg of hydrocodone. If the person is under 18, the five-day supply can be no more than 30 pills or 100mg of hydrocodone. The physician assistant must complete three hours of continuing education biennially in the appropriate ordering and use of schedule II controlled substances.

<http://www.legis.ga.gov/Legislation/20172018/170644.pdf>

Veto Statement from the Governor

SB 222 *'Local Government 9-1-1 Authority Act'; Local Government 9-1-1 Authority; create*

John Kennedy

Effective date varies

- SB 222 (LC 41 1195S) creates new Chapter 93 of Title 36, relating to local government, to be known as the "Local Government 9-1-1 Authority Act". New Code section 36-93-3 creates the Authority as a state instrumentality. All local governments that operate or contract for the operation of a public safety answering point as of July 1, 2017 shall be members of the Authority. The purpose of the authority is to administer, collect, audit and remit 9-1-1 revenue for the benefit of local gov'ts, as specified in the Chapter, and in accordance with certain specified factors. Control and management are vested in a Board of Governors and the make-up of the Board and how the Board members are to be appointed is specified.
- New Code section 36-93-4 provides that the Board shall appoint an Executive Director who, with the Board's Approval, shall hire officers, agents and employees.
- New Code section 36-93-5 provides that beginning Jan. 1, 2019, all 9-1-1 charges and all wireless enhanced 9-1-1 charges imposed by local gov'ts and collected by service suppliers shall be

remitted to the authority on a monthly basis. Each service supplier shall also submit a report with the funds collected identifying the amount of the charges from the telephone subscribers.

- *New Code section 36-93-5.1 provides that the Authority shall contract with the Dept. of Revenue (DOR) for the collection and disbursement of charges remitted to the Authority for the collection the fees collected under 36-93-5. Also, the Authority shall also contract with the DOR for the collection and disbursement of prepaid wireless charges remitted under Code section 46-5-134.2.*
- *New Code section 36-93-6 provides that the DOR shall retain from the charges remitted to it an amount equal to 1% of the total amount of such charges and remit such amount to the Authority to cover the Authority's costs of administration of the Chapter. The remainder of the funds shall be paid out by the DOR to each local gov't on a pro rata basis based on the remitted amounts attributable to each local gov't by service supplier reports.*
- *New Code section 36-93-7 provides that beginning Jan. 1, 2019, the Authority is to employ or contract auditors and sets up an auditing schedule for service suppliers. It also creates a procedure for mandating audit compliance.*
- *New Code section 36-93-8 provides that except in limited enumerated circumstances stated, the information submitted by a service provider to the Authority shall be deemed confidential, proprietary, trade secret or subject to exemption under the ORA. However, nothing in the Code section shall prohibit the Authority from complying with a court order or request of a state grand jury, law enforcement agency or prosecuting attorney in conjunction with an ongoing administrative, criminal, or tax investigation.*
- *The Act becomes effective on July 1, 2017 for purposes of creating the Authority and appointing its members. The provisions regarding billing practices contained in § 36-93-7(d) become effective on July 1, 2018. For all other purposes, the Act becomes effective on Jan. 1, 2019*

<http://www.legis.ga.gov/Legislation/20172018/170803.pdf>

Veto Statement from the Governor

Part 3 - Resolutions creating Constitutional Amendments

There were no resolutions passed this session to include in this report.

Part 4 – Resolutions Creating Study Commissions

HR 282 House Study Committee on Distracted Driving; create

John Carson

Effective date July 1, 2017

HR 282 creates a 10-member House committee to study the issue of distracted driving and generate a report that may include proposed legislation. The committee will be abolished on 12/1/17.

<http://www.legis.ga.gov/Legislation/20172018/165380.pdf>

HR 629 House Study Committee on the Utilization and Modernization of the State Capitol and Other Buildings; create

James Hatchett

Effective date July 1, 2017

HR 629 tracks with SR 414 and creates a House study committee to see if the Capitol, CLOB, Governor's Mansion, and the surrounding parking lots and buildings are in need of modernizing. The committee will be abolished on 12/1/17.

<http://www.legis.ga.gov/Legislation/20172018/168545.pdf>

**SR 130 Joint Transparency and Open Access in Government Study
Committee; create**

Chuck Hufstetler

Effective date July 1, 2017

SR 130 acknowledges that many state agencies possess a huge amount of information and reports that can be used by the legislative and executive branches to have a positive impact on the life of many Georgians, so a joint study committee will be created to make recommendations on IT and information sharing within state government. The house and senate get 3 members each who are entitled to statutory per diems. If they make findings they have to issue a report. The committee will be abolished on December 1, 2017.

<http://www.legis.ga.gov/Legislation/20172018/170823.pdf>

**SR 414 Senate Study Committee on the Utilization and Modernization of the
State Capitol and Other Buildings; create**

Jeff Mullis

Effective date July 1, 2017

SR 414 creates a Senate study committee to see if the Capitol, CLOB, and the surrounding parking lots and buildings are in need of modernizing. The committee will have 5 senators to include one from the minority party, plus an additional three appointees with expertise in construction and economic development. The committee will make recommendations or propose legislation to effect its purpose. The legislators get their per diem, the others get no compensation, just expenses. The committee is abolished on December 1, 2017.

<http://www.legis.ga.gov/Legislation/20172018/168237.pdf>

Part 5 - Commendatory Resolutions

There were no resolutions this year to include in this section

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