

House Bill 137

By: Representatives Crowe of the 118<sup>th</sup>, Collins of the 71<sup>st</sup>, Mathis of the 149<sup>th</sup>, and McCollum of the 30<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 10 of Title 17 and Chapter 2 of Title 42 of the Official Code  
2 of Georgia Annotated, relating to procedure for sentencing and imposition of punishment and  
3 board and Department of Corrections, respectively, so as to provide for notification to the  
4 Department of Corrections when a prisoner has been convicted of killing a peace officer in  
5 the line of duty; to provide for adoption of rules and regulations by the board of the  
6 Department of Corrections; to provide for the adoption of a rule relating to housing an inmate  
7 convicted of murder of a peace officer killed in the line of duty in a close security facility;  
8 to provide for the adoption of a rule relating to any transfer of such inmate to a lower security  
9 facility; to provide for a short title; to provide for definitions; to provide for related matters;  
10 to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 This Act shall be known and may be cited as "Bishop's Law."

**SECTION 2.**

Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to procedure for sentencing and imposition of punishment, is amended in Code Section 17-10-12, relating to affidavit specifying number of days spent in confinement, disposition of affidavit, and granting of credit to defendant, by revising subsection (b) as follows:

"(b)(1) The clerk of the court shall transmit a copy of the custodian's affidavit to the Department of Corrections when the defendant has been sentenced to the custody of the department. The Department of Corrections shall give the defendant credit for the number of days spent in confinement prior to conviction and sentence, as reflected in the custodian's affidavit, before forwarding the record to the State Board of Pardons and Paroles.

(2) When the defendant has been sentenced to the custody of the Department of Corrections for a conviction of Code Section 16-5-1 in which the victim was a peace officer killed in the line of duty, the clerk of court shall transmit notification thereof.

(3) No later than January 1, 2024, the clerk of any court which sentenced a defendant who is currently in the custody of the Department of Corrections for a conviction of Code Section 16-5-1 in which the victim was a peace officer killed in the line of duty shall transmit to the department notification that such individual was convicted of such crime."

**SECTION 3.**

Chapter 2 of Title 42 of the Official Code of Georgia Annotated, relating to board and Department of Corrections, is amended by revising Code Section 42-2-11, relating to powers and duties of board and adoption of rules and regulations, as follows:

"42-2-11.

(a) As used in this Code section, the term:

(1) 'Close security or special mission facility' means a facility with security measures designed for offenders requiring the maximum level of oversight.

40 (2) 'Evidence based practices' means supervision policies, procedures, programs, and  
 41 practices that scientific research has demonstrated to reduce recidivism among  
 42 individuals who are under some form of correctional supervision.

43 (3) 'Peace officer' means a person who is certified to exercise the powers of arrest.

44 (4) 'Recidivism' means returning to prison or jail within three years of being placed on  
 45 probation or being discharged or released from a department or jail facility.

46 (5) 'Rules and regulations' shall have the same meaning as the word 'rule' in  
 47 paragraph (6) of Code Section 50-13-2.

48 ~~(a)~~(b) The board shall establish the general policy to be followed by the department and  
 49 shall have the duties, powers, authority, and jurisdiction provided for in this title or as  
 50 otherwise provided by law.

51 ~~(b)~~(c) The board is authorized to adopt, establish, and promulgate rules and regulations  
 52 governing the transaction of the business of the state penal system ~~of the state~~ by the  
 53 department and the commissioner and the administration of the affairs of ~~the penal system~~  
 54 ~~in the different penal institutions coming~~ under its authority and supervision and shall make  
 55 the institutions as self-supporting as possible. Such rules and regulations shall address the:

56 ~~(c)~~(1) ~~The board shall adopt rules governing the assignment~~ Assignment, housing,  
 57 working, feeding, clothing, treatment, discipline, rehabilitation, training, and  
 58 hospitalization of all inmates coming under its custody-, provided that any inmate  
 59 convicted of murder of a peace officer killed in the line of duty shall be assigned housing  
 60 at a close security or special mission facility;

61 ~~(2)~~(A) ~~As used in this paragraph, the term:~~

62 ~~(i)~~ 'Evidence based practices' means supervision policies, procedures, programs, and  
 63 practices that scientific research demonstrates reduce recidivism among individuals  
 64 who are under some form of correctional supervision.

65 ~~(ii)~~ 'Recidivism' means returning to prison or jail within three years of being placed  
 66 on probation or being discharged or released from a department or jail facility.

67 ~~(B)(2) Management The board shall adopt rules and regulations governing the~~  
68 ~~management and treatment of inmates coming under its custody to ensure that evidence~~  
69 ~~based practices, including the use of a risk and needs assessment and any other method~~  
70 ~~the board deems appropriate, guide decisions related to preparing inmates for release into~~  
71 ~~the community;. Any risk and needs assessment instrument shall be revalidated by~~  
72 ~~January 1, 2019, and every five years thereafter. The board shall require the department~~  
73 ~~to collect and analyze data and performance outcomes relevant to the level and type of~~  
74 ~~treatment given to an inmate and the outcome of the treatment on his or her recidivism~~  
75 ~~and prepare an annual report regarding such information which shall be submitted to the~~  
76 ~~Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the~~  
77 ~~chairpersons of the House Committee on Judiciary and the Senate Judiciary Committee.~~

78 ~~(C) Using evidence based practices, the board shall evaluate the quality of the~~  
79 ~~programming utilized at all department facilities, except state prisons, by January 1,~~  
80 ~~2019, and every five years thereafter, and shall publicly publish its report.~~

81 ~~(d)(3) Welfare The board shall also adopt rules and regulations governing the conduct~~  
82 ~~and the welfare of the employees of the state institutions operating under its authority and~~  
83 ~~of the county correctional institutions and correctional facilities or programs operating~~  
84 ~~under its supervision. It shall prescribe the, including the prescription of working hours~~  
85 ~~and conditions of work for employees in the office of the commissioner and in~~  
86 ~~institutions operating under the authority of the board;.~~

87 ~~(e)(4) Negotiation The board shall also adopt rules and regulations governing the~~  
88 ~~negotiation and execution of any contract for the land acquisition, design, construction,~~  
89 ~~operation, maintenance, use, lease, or management of a state correctional institution or~~  
90 ~~for any services pertaining to the custody, care, and control of inmates or other functions~~  
91 ~~as are related to the discharge of these responsibilities;.~~

92 ~~(f) The board shall adopt rules:~~

93 ~~(1)~~(5) Transfer Providing for the transfer to a higher security facility of each inmate who  
94 commits battery or aggravated assault against a correctional officer while in custody;  
95 provided, however, that this provision shall not apply in instances where the inmate is  
96 already incarcerated in a ~~maximum security~~ close security or special mission facility; and  
97 ~~(2)~~(6) Procedures ~~Specifying the procedures~~ for offering department assistance to  
98 employees who are victims of battery or aggravated assault by inmates in filing criminal  
99 charges or civil actions against their assailants, including procedures for posting notices  
100 that such assistance is available to any employee who is subjected to battery or  
101 aggravated assault by an inmate, but not including legal representation of such  
102 employees; and  
103 (7) Prohibition of the transfer of any inmate convicted of murder of a peace officer killed  
104 in the line of duty to a lower security facility; provided, however, that those inmates  
105 eligible for parole may be moved to a lower security facility upon approval and direction  
106 of the State Board of Pardons and Paroles.  
107 (d)(1) Any risk and needs assessment instrument shall be revalidated by January 1, 2019,  
108 and every five years thereafter. The board shall require the department to collect and  
109 analyze data and performance outcomes relevant to the level and type of treatment given  
110 to an inmate and the outcome of the treatment on his or her recidivism and prepare an  
111 annual report regarding such information which shall be submitted to the Governor, the  
112 Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons  
113 of the House Committee on Judiciary and the Senate Judiciary Committee.  
114 (2) Using evidence based practices, the board shall evaluate the quality of the  
115 programming utilized at all department facilities except state prisons by January 1, 2019,  
116 and every five years thereafter, and shall publicly publish its report.  
117 ~~(g)~~(e) All rules and regulations adopted pursuant to this Code section shall be adopted,  
118 established, promulgated, amended, repealed, filed, and published in accordance with the  
119 applicable provisions and procedure as set forth in Chapter 13 of Title 50, the 'Georgia

120 Administrative Procedure Act.' The courts shall take judicial notice of any such rules or  
121 regulations.

122 ~~(h) As used in this Code section, the words 'rules and regulations' shall have the same~~  
123 ~~meaning as the word 'rule' is defined in paragraph (6) of Code Section 50-13-2.~~

124 ~~(i)(f)~~ The board shall have the authority to request bids and proposals and to enter into  
125 contracts for the operation of probation detention centers by private companies and entities  
126 for the confinement of probationers under Code Section 42-8-35.4. The board shall have  
127 the authority to adopt, establish, and promulgate rules and regulations for the operation of  
128 probation detention centers by private companies and entities."

129 **SECTION 4.**

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