

House Bill 233

By: Representatives Scott of the 76<sup>th</sup>, Schofield of the 63<sup>rd</sup>, Carter of the 93<sup>rd</sup>, Jones of the 60<sup>th</sup>, Davis of the 87<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated,  
2 relating to procedure for sentencing and imposition of punishment, so as to provide for  
3 mental health treatment alternatives to imprisonment; to provide for mental health treatment  
4 options while imprisoned; to provide for procedures; to provide for related matters; to repeal  
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to  
9 procedure for sentencing and imposition of punishment, is amended by adding a new Code  
10 section to read as follows:

11 "17-10-22.

12 (a) A defendant who has pleaded guilty or nolo contendere to or has been convicted of a  
13 felony or misdemeanor and who currently is, or at any prior time was, eligible for public  
14 mental health services due to a diagnosed serious mental illness or who currently is, or at  
15 any prior time was, eligible for Social Security Disability Insurance benefits due to a  
16 diagnosed serious mental illness may petition the court for a sentence that includes mental

17 health treatment. Such petition shall be filed subsequent to the defendant's plea or  
18 conviction and before his or her sentencing.

19 (b) The defendant shall bear the burden of establishing by a preponderance of the evidence  
20 that he or she meets the criteria provided for in subsection (a) of this Code section.

21 (c) If the court determines that the defendant has met such burden as provided for in  
22 subsection (b) of this Code section, the court may order that the defendant's sentence  
23 include one or more of the following:

24 (1) That the defendant serve, if such defendant agrees, all or a part of his or her sentence  
25 in a residential mental health treatment facility and not in the state prison or a county jail;  
26 provided, however, that it has been determined by the court that such placement will not  
27 pose unreasonable risk to public safety;

28 (2) Regardless of the offense to which the defendant has pleaded guilty or nolo  
29 contendere or for which such defendant was convicted, that the penal institution place  
30 such defendant in a mental health program, at a level of care determined by a physician  
31 treating such defendant's mental health issues to be appropriate, within 30 days of such  
32 defendant's sentencing; or

33 (3) Regardless of the offense to which the defendant has pleaded guilty or nolo  
34 contendere or for which such defendant was convicted, that the penal institution prepare  
35 a post-release mental health treatment plan six months prior to the defendant's release  
36 from custody. Such mental health treatment plan shall specify the manner in which such  
37 defendant will receive mental health treatment services following release from custody  
38 and shall address, if applicable and at the discretion of the court, the medication  
39 management, housing, and substance abuse treatment for such defendant.

40 (d) At any time upon petition by the defendant or the prosecuting attorney, the court may  
41 recall a sentence that includes a mental health treatment plan as provided for in subsection  
42 (c) of this Code section and either resentence such defendant to other mental health  
43 treatment as provided for in subsection (c) of this Code section or resentence such

44 defendant in the same manner as if he or she had not been previously sentenced pursuant  
45 to this Code section; provided, however, that it has been determined by the court that such  
46 resentencing will not pose unreasonable risk to public safety. A previously sentenced  
47 defendant shall be credited with time served pursuant to such defendant's prior sentence  
48 and shall not be sentenced to a longer term than originally imposed."

49

**SECTION 2.**

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