

House Bill 853

By: Representatives Scott of the 76th, Schofield of the 60th, Wilkerson of the 38th, Davis of the 87th, and McLeod of the 105th

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.