LEGISLATIVE UPDATE:
2017 SESSION

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Sheriff’s Fees
HB 14 – Rep. Jeff Jones

Amends Code Section 15-16-21 to provide that:

"(a) In all counties in this state where the sheriff is paid on a salary only basis, this Code section shall apply as far as fees to be charged. Such fees shall be remitted to the county treasurer or fiscal officer of the county within 30 days of receipt."

College Sanctuaries
HB 37 – Rep. Earl Ehrhart

• Prohibits private colleges that receive tuition equalization grants from the government from having a “sanctuary policy” related to “status information” related to identity and location of individuals reasonably believed to be violating the law.

• Aimed at immigration, suspected terrorism, etc.

• Penalty – loss of funding, including “scholarships, loans, and grants … for students”
Commercial Vehicles
HB 58 – Rep. Terry Rogers

• Adopts the current federal regulations related to motor carriers and commercial motor vehicles. 49 C.F.R. (January 1, 2017).
  – It means you have to pay attention to offense date as it relates to which regulations to cite when charging.

Effective upon signature.

Access to Child Abuse Records
HB 75 – Rep. Wendell Willard

• Amends § 49-5-41 related to who can have child abuse records and clarifies that when releasing to “any adult” these records may be redacted not only as it relates to “any record of law enforcement or prosecution … in any pending” case, but also “a record of the department that includes information provided” by same.

• The bill also applies the same redaction permissibility to open records requests.

Effective upon signature.

Reporting of Child Abuse
HB 86 – Rep. Mary Margaret Oliver

• Adds Trafficking a Person for Sexual Servitude pursuant to OCGA § 16-5-46 (c), to the required mandated reporting for child abuse.

Effective upon signature.
Judicial Qualifications Commission
HB 126 – Rep. Wendell Willard

- Increased to 10 members. (7 investigative & 3 hearing panel)
- Dissolved current and reconstituted the new commission.
- Provides for appointments of the members from the Governor, Speaker of the House and Lieutenant Governor.
- All information regarding a disciplinary or incapacity matter shall be kept confidential before formal charges are filed.

Drivers’ Licenses
HB 136 – Rep. Amy Carter

- DDS Clean-up bill
- Amends OCGA § 40-5-20: Non-citizens are allowed to retain their foreign licenses, provided they are not required by Federal law to terminate their foreign license.

Effective July 1, 2017
Drivers’ Licenses
HB 136 – Rep. Amy Carter

• Amends OCGA § 40-5-23(c) regarding:
  – Class C: any three-wheeled motor vehicle equipped with a steering wheel for directional control;
  – Class M: three-wheeled motorcycles equipped with handlebars for directional control.

• Amends OCGA § 40-5-53 (b)(4) to allow any conviction (not just commercial drivers’ license violations), to be considered for purposes of commercial vehicle license disqualification in accordance with OCGA § 40-5-151.

Effective July 1, 2017 and July 1, 2018.

New Superior Court Judge

• 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.

Powers of Attorney
HB 221 – Rep. Chuck Efstration

• Georgia conforms to the Unified Powers of Attorney Act.
  – Defines the relationship with the principal and establishes rules for the agency agreement.
  – Provides for applicability, validity, meaning, effect, and termination of a power of attorney;
  – Provides for an agent, co-agent, and successor agent, their duties, responsibilities, liability, authority, and compensation;
  – Provides for general and specific authority that a principal may give an agent in a power of attorney and provide for forms.
Powers of Attorney – Criminal Offenses
HB 221 – Rep. Chuck Eststration

- Amends OCGA § 16-8-10 as it relates to affirmative defenses for the theft statutes to make clear:
  “The use of a power of attorney as provided in Chapter 6B of Title 10 shall not, in and of itself, absolve a person from criminal responsibility.”

- Amends OCGA § 16-5-105 as it relates to the protection of elder persons to make clear:
  “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.”

Controlled Substances
HB 231 – Rep. Bruce Broadrick

- Annual drug update bill.
- Deals with fentanyl, the fentanyl analog structural class and derivatives, their salts, isomers, or salts of isomers.
- Moved Carfentanil and Thiafentanil.
- Captured substances not previously scheduled.

Effective upon signature.

Prescription Drug Monitoring Program
HB 249 – Rep. Kevin Tanner

- PDMP – update the database used to track the dispensing of controlled substances.
- Administered by the Department of Public Health.
- Now “prescribers” and “dispensers” shall register and have responsibilities under PDMP.
**Prescription Drug Monitoring Program**

HB 249 – Rep. Kevin Tanner

- Requires “prescribers” to check the database before prescribing certain controlled substances.
- Requires a prescriber giving opioids to provide information on addictive risks and for safely disposing of any unused opioids.
- Added death as “a result of apparent drug overdose” to required notification of suspicious or unusual death to the coroner/medical examiner.
- Effective upon signature.

**Emergency Management**

HB 251 – Rep. Darrel Ealum

- New Code Section 38-3-38 - 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."

Effective July 1, 2017

**First Offender Retroactivity**

HB 261 – Rep. William Werkheiser

- Applies to Offenders sentenced between March 18, 1968 – October 31, 1982.
- They were left out of the previous CJ Reform retroactivity.
- Still requires consent of the prosecuting attorney.
- Only applies if not sentenced to more than one year and were otherwise qualified.
- Also, clarifies that Retroactive Petition can be filed in any case regardless of when they were sentenced.
Name Change - Domestic Violence  
**HB 279 – Rep. Mandi Ballinger**

- When a victim of domestic violence petitions for a name change – they may also petition that it be done under seal.
  - The court can waive the publication requirements.
  - Can be unsealed later, or redacted and filed in the public record.
  - Applies to the petitioner and his or her minor children.

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Campus Carry  
**HB 280 – Rep. Mandi Ballinger**

- Public technical school, vocational school, college, university, or other public institution of postsecondary education.
- Allows weapons carry permit holders to carry handguns concealed on postsecondary educational institutes.
- Permit holder – can only be punished by $25.00 and no confinement, for conviction of first offense violation.

Effective July 1, 2017

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Campus Carry

- Exceptions:
  - Building or property used for athletic sporting events or student housing (including fraternity and sorority houses);
  - 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;

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Campus Carry

• Exceptions:
  – any room where high school students are enrolled through a dual enrollment program, and
  – “(v) Not apply to faculty, staff, or administrative offices or rooms where disciplinary proceedings are conducted;”

Weapons Carry Provisions

• ‘Georgia Firearms Industry Nondiscrimination Act’ which captures financial services under Title 10.

• The Act makes it an unlawful discriminatory practice to not bank a person or trade association because they are engaged in the lawful commerce of firearms or ammunition products.

• The Attorney General to bring a civil action in the name of the State to act on behalf of the person or trade association and recover damages or obtain an injunction.

• The definition of a “knife” in Code Section 16-11-125.1 is changed from 5 to 12 inches. (SB 49 – Sen. Bill Heath). So our definition of “weapon” no longer includes a 12 inch knife.

• A new 90-day GA resident timeline to apply for a carry permit once you’ve become a resident when your out of state permit is still valid in GA.

• If you have a valid hunting or fishing license (w/o a carry permit) you can carry a knife in state recreational or wildlife management areas.
Creates new (c.1) to § 16-11-130 that now overrides all exemptions provided for in courthouses.

Adds a definition of “courthouse” – means a building or annex occupied by judicial courts and containing rooms in which judicial proceedings are held.

Adds a new category of exempted individuals from weapons carry – retired law enforcement with at least ten years aggregate service, separated in good standing, and possesses an ID card issued by POST who maintains standards for the issuance of such card. They can also carry in a courthouse – except as limited by the new (c.1).

Also creates tort civil immunity to any firearm instructor.

The New (c.1)

• Clarifies that pursuant to a security plan – “may provide for facilities or the means for holding of weapons carried”… by law enforcement.

• If so provided – may require weapons to be secured (and not carried in the courthouse) from even the exempt persons under 16-11-130.

• EXCEPT: “active law enforcement officers… shall be authorized to carry their service handguns and weapons in any courthouse if they are wearing the assigned uniform of their law enforcement office or have the official badge and identification credentials issued to them by their law enforcement office displayed and plainly visible on their person while in the performance of their official duties.”

Effective upon signature.

Motor Vehicles Air Bag

• Amends 16-9-111 related to air bags and creates a crime related to the use of “counterfeit air bag(s)”.

• Misdemeanor of a high and aggravated nature to distribute the air bags or the device that makes the vehicle “inaccurately indicate that” the airbag is working.

Effective upon signature.
Commercial Vehicles  
HB 328 – Rep. Sam Watson

• Amends OCGA § 32-6-24(b)(2)(C) related to lengths of loads to include a rear overhang of up to 6 (was 4) feet.

• 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.

• Gives Department of Transportation total discretion to determine the hours of usage of FlexAuto lanes.

Human Trafficking  

• OCGA § 16-5-47, Human Trafficking Hotline – GBI to develop the notice that gives individuals a method to contact the National Human Trafficking Hotline and the Statewide Georgia Hotline for Domestic Minor Trafficking.

• OCGA § 16-5-46(c), added "subject an individual", "recruit an individual", or "solicit" an individual for the purpose of sexual servitude.

Human Trafficking

• Punishment (separates punishment for labor and sexual servitude):
  – Labor remains the same – 10 to 20 and 25 to 50 years if the individual was under 18.
  – Sexual servitude for “subject an individual” or “recruit” – remains 10 to 20 and 25 to 50 or life if under 18 & was coerced or deceived or if against an individual with developmental disabilities.
  – Sexual servitude for “solicit” (the Johns) – if the individual is 16 or 17 then 5 to 20; if younger than 16 or developmentally disabled then 10 to 20.
    (Soliciting of an adult is Pandering under OCGA § 16-6-12)
Other Sex Crimes

- O.C.G.A. § 16-6-10: Keeping a place of prostitution – still misdemeanor of a high and aggravated nature – but now 24 hours in jail required.
- O.C.G.A. § 16-6-11: Pimping - still misdemeanor of a high and aggravated nature – but now 24 hours in jail required.
- O.C.G.A. § 16-6-12: Pandering - still misdemeanor of a high and aggravated nature – but now 24 hours in jail required.

Punishment for Sexual Offenders

- O.C.G.A. § 16-12-100 Sexual Exploitation of Children - Punishment amended to require the provisions of 17-10-6.2 to apply, related to serving mandatory minimum sentence and the additional 1 year of probation.
- O.C.G.A. § 17-10-6.2 Sex Offender sentencing – clarified that the one year of probation only applies to the “final consecutive sentence imposed”.
- O.C.G.A. § 42-1-12 Sex Offender Registry – added Trafficking an individual for Sexual Servitude.

Mental Retardation – Intellectual Disability

HB 343 – Rep. Scott Hilton

- Replaced throughout the Code the term “mental retardation”.
- Giving Intellectual Disability the same definition - “means having significantly subaverage general intellectual functioning resulting in or associated with impairments in adaptive behavior which manifested during the developmental period.
- Clarifies that 5 verdicts are available and the appropriate jury instruction any time “insanity, mental illness, or intellectual disability” is raised.
Supporting and Strengthening Families Act  

- Creates a new Article 4 to Title 19, Chapter 9.
- Allows a parent by delegation, not to exceed one year transfer caregiving authority of a child to a family member or certain child care entities.
- Can be done without approval of a court.
- Cannot be done during the pendency of a divorce.
- Cannot be used to subvert a child welfare investigation.
- There are provisions for notice and objections.

Safe Place for Newborns  
HB 391 – Rep. David Clark

- Bars prosecution of 16-5-70 (Cruelty to Children), 16-12-1 (Contributing to the Delinquency), or 19-10-1 (Abandonment).
- If a mother leaves her newborn child with a person at a “medical facility, fire station, or police station”,
- Provided that child is no more than one week 30 days old and
- the mother shows proof of her identity name and address, if willing.

Distributing Materials During State of Emergency  

- Emergency powers of the Governor OCGA§38-3-58.
- Georgia Emergency Management and Homeland Security Agency
  - to establish a statewide system to facilitate the transport and distribution of “essentials” in commerce.
  - “Essentials” are defined as “goods that are consumed or used as a direct result of a state of emergency declared by the Governor.”
  - There would be a certificate giving special permissions during a state of emergency such as a curfew waiver.
Domestic Terrorism
(formally known as SB 1)
HB 452 – Rep. Jesse Petrea

- Moves “Domestic Terrorism” from O.C.G.A. § 16-4-10 to a new O.C.G.A. § 16-11-220

- “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:”

Domestic Terrorism

- (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.

Domestic Terrorism

- Provides definitions for critical infrastructure, public transportation system, serious bodily harm and State or government facility.

- Penalties:
  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 imprisonment for five to 35 years.
Domestic Terrorism

• Mandatory prison on sentence – have to give straight time unless the state and defendant agree.

• Provides a broad venue provision.

• Attorney General to have concurrent jurisdiction with District Attorney to prosecute.

Effective July 1, 2017

Domestic Terrorism

• Amended O.C.G.A. § 17-10-30 to provide for domestic terrorism to be a statutory aggravating circumstance for the purpose of seeking the death penalty.

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

Domestic Terrorism

• Code Section 35-3-14 which provides to 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.
Truck Drafting

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

Licenses for Former Law Enforcement Officers
SB 15 – Sen. Michael Rhett

- Disabled: clarifies that it applies to officers that served 10 years and left as a result of a disability arising in the line of duty and receiving benefits.
  - Retired: 10 years of the 12 years immediately preceding the retirement.

Low-THC Oil
SB 16 – Sen. Ben Watson

- Requires that anyone possessing low-THC oils keep it in a container that indicates the THC content of the oils.
- Recognizes registry cards in Georgia from other states that allow low-THC oils that are legal in Georgia for up to 45 days after the person arrives.
- Removes the requirement that patients must reside in Georgia for at least one year before being eligible for the registry.
- 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.
Low-THC Oil

New conditions are:
- 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 stage;
- AIDS, when diagnosed as severe or end stage;
- Peripheral neuropathy, when diagnosed as severe or end stage;
- Is an inpatient or outpatient in a hospice program.

More Firearms Exceptions
SB 18 – Sen. Tyler Harper

- Started out - GPSTC retirees can keep their guns. Ended up including all “state entities”. State entities to adopt appropriate policies so related.

- Added amendment to O.C.G.A. § 16-11-130
  - “retired” GBI employees are now exempt.
  - All “retired” with at least 10 years service from other states or the United States.
  - Further clarifies that retired GBI and GSP are exempt.

Narcotic Treatment Programs
Enforcement Act
SB 88 – Sen. Jeff Mullis

- Regulated by the Department of Community Health, lays out the minimum standards for quality and services in narcotic treatment programs. These are programs that treat heroin or opiate-like drug dependent individuals through the administration of narcotics.

- Gives the Department the authority to create the rules for implementation.

- Requires a license to operate a drug treatment program.

- New OCGA § 26-5-58 makes any violation of the new Article a misdemeanor.
Statewide Master Jury List  
SB 95 – Sen. Jesse Stone

• Clarifies the Council of Superior Court Clerks’ responsibility related to the statewide master jury list.
• Removed “ethnic” information from what DDS is to provide the Council.
• Requires DDS and the Secretary of State to assign a “secure unique identifier” (the last four of their SSN) to every driver’s license and registered voter.
• The same identifier is to be used by the Department of Public Health as it relates to purging the list of the deceased.
• The same identifier is to be used by the Department of Corrections as it relates to purging the list of convicted felons. And then Pardons & Parole as it relates to pardons.

Crime Protection Act of 2017  
(Christmas Tree)  
SB 104 – Sen. Donzella James

I. Hijacking a Vehicle in the 2nd degree  
(Boddie – HB 67)
II. Human Trafficking Notice (James’ Original Bill)
III. Felony possession of False Insurance Documents (Golick – HB 214)
IV. Upskirting/Downblousing (HB 9; SB 45)
V. Trafficking in Fentanyl (Golick – HB 213)

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.
Human Trafficking Notice

• The second section requires the model notice on human trafficking and the hotline to be displayed in certain types of government buildings.

Felony Possession of False Insurance Documents

• 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.

Upskirting

• Criminalizes using a device to observe or photograph underneath or through another’s 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.
**Trafficking in Fentanyl**

- The final part of SB 104 puts Fentanyl on the same footing as morphine, heroin, and opium. 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 upon signature of the Governor. The remaining provisions of SB 104 go into effect on July 1, 2017.

**“Jeffrey Dallas Gay, Jr., Act”**

- **SB 121 – Sen. Butch Miller**
- **Access to Naloxone – make it readily available.**
  (Narcan – used for opioid overdose)
  - Gives the State Health Officer the right to issue a standing order to give certain entities the right to obtain opioid antagonists under certain conditions.
  - Pharmacies must keep complete records of every opioid antagonist dispensed.

**School Resource Officers – Probation Officers**

- **SB 149 – Sen. Emanuel Jones**
- Amends O.C.G.A. § 35-8-2 and defines “school resource officer.”
- Provides best practices related to training the SROs and directs POST to establish a 40 hour SRO training course.
- Gives municipal probation officers the power of arrest as it relates to those he or she is supervising.
School Resource Officers – Tobacco & Stored Value Cards

- Adds “tobacco or any product containing tobacco” from the prohibited items to be brought into a jail under O.C.G.A. § 42-4-13. and makes it a crime to obtain or give tobacco to an inmate without permission.

- Creates new crimes under O.C.G.A. § 42-5-18:
  - Clarifies that it does not matter whether or not it was giving to an inmate inside or outside the place of incarceration.
  - New (e) “unlawful for an inmate to possess a stored value card, the account number or Pin of a stored value card.
  - Makes it a crime (1-10) to obtain, procure or give one to an inmate.

“Back the Badge Act of 2017”

SB 160 – Sen. Tyler Harper

- Increased punishments for crimes against ‘public safety officers.’

- New definition in Code Section 16-5-19, for “public safety officer” that includes “peace officer, correctional officer, emergency health worker, firefighter, highway emergency response operator (HERO), jail officer, juvenile officer, juvenile correctional officer, or probation officer”.

- NOTE: Does not include “officer of the court.” (House removed).

Aggravated Assault

- OCGA §16-5-21 - against a ‘public safety officer’:
  - (c)(1)(A) – if discharge of a firearm (shot at police) and the defendant was 17 at the time – at least 10 to serve, no more than 20. This is a mandatory minimum (but can be paroled).
  - (B) when no discharge of firearm, the defendant was 17 at the time and involved any weapon, other than “only the use of the person’s body” 5 to 20 with at least 3 to serve also a mandatory minimum (but can be paroled).
    - However, court may deviate from the 3 years when the prosecuting attorney and the defendant agree.
  - (C) When the assault “occurs only involving the use of the person’s body” then 5 to 20 with no mandatory minimum.
Aggravated Battery

- OCGA §16-5-24 - against a ‘public safety officer’:
- Currently 10 – 20 with no mandatory minimum
- New (c)(1) – if the defendant is 17 at the time mandatory minimum of three years (can be paroled)
  - However, court may deviate from the 3 years when the prosecuting attorney and the defendant agree.

Juveniles

- O.C.G.A. § 15-11-560 related to superior court having exclusive jurisdiction – Added:
  - Aggravated Assault with a firearm upon a public safety officer.
  - Aggravated battery upon a public safety officer.
    (Superior Court can still consider transfer to juvenile court)
- Class A designated felony statute (O.C.G.A. § 15-11-2):
  - Aggravated Assault is broken down to exclude the new offense against the new “public safety officer”.
  - Aggravated Battery is separated out if it is “upon a public safety officer”.

Georgia State Indemnification Fund

- Raised the benefit paid to the family $100,000 to $150,000.
- On any Aggravated Assault or Aggravated Battery on a public safety officer – must be fined $2000 to this fund.
- On any Obstruction charge (misd. or felony) – must be fined $300 to this fund.
**Riot in a Penal Institution**

- OCGA §16-10-56 – removed the name “riot” but still covers “an unlawful act of violence or any other act in a violent or tumultuous manner in a penal institution”.

- Remains a felony of 1-20 years.

**Obstruction**

- OCGA §16-10-24 – Added “prison guard, jailer, correctional officer, community supervision officer, county or Department of Juvenile Justice juvenile probation officer, probation officer (private, county or city) to misdemeanor obstruction.

- Adds “jailer” to felony obstruction. Remains 1 – 5 sentence.

- New Punishment for felony obstruction (not a mandatory minimum):
  - 2nd conviction 2 – 10 sentence.
  - 3rd and subsequent conviction 3 – 15 sentence.

**New Obstruction**

- (c) “knowingly and willfully resists, obstructs, or opposes … by knowingly and willfully throwing, projecting, or expelling:
  - Human or animal blood, urine, feces, vomitus, or seminal fluid on or at”…

- Now a 1-5 felony sentence.
**Child Abuse Records; access**  
SB 168 – Sen. Butch Miller

- OCGA § 49-5-41, 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,
  4. Department of Community Supervision,
  5. Department of Corrections, and
  6. 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.

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**Child Abuse Records; access**

OCGA § 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.

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**Child Abuse Records; access**

OCGA § 49-5-185, relating to access to information in Central Child Abuse Registry, access granted to:

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,

4. any entity licensed by another state to place children for adoption which information shall be provided at the discretion of DFCS/DHR.
Law Enforcement License Plate
SB 169 – Sen. Gregory Kirk

- Authorizes a special license plate honoring Georgia law enforcement officers, with the words ‘back the badge’ to be displayed across the bottom.

- The funds raised by the sale of this special license plate shall be disbursed to the Peace Officers’ Annuity and Benefit Fund.

Criminal Justice Reform – Part I
SB 174 – Sen. John Kennedy

- Accountability Courts:
  - Veterans Court Divisions – allows the Council of Accountability Courts to provide the same assistance and oversight as it does other Accountability Courts.
  - Family Treatment Courts - 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.

Criminal Justice Reform – Part I

- Behavioral incentive date – Amends OCGA § 17-10-1 and applies to:
  - 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.
Criminal Justice Reform – Part I

• When the behavioral incentive date is reached:
  – Within 60 days of reaching the 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.

• What happens:
  – 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.
  – Standard for a hearing – “The court to take whatever action it determines would be for the best interest of justice and the welfare of society.”

• Amends OCGA § 42-8-37 from previous years – “two years” probation review – changed it to “three years” and incorporated the standards the same as the “behavioral incentive date”.

• NOTE: It is retroactive and requires them to file a petition to terminate on all cases that qualify.
Criminal Justice Reform – Part I

• Payment of probation supervision fees:
  – Gives the court a weighing test to determine if the fees should be waived that ends “any other factor the court deems appropriate”.
  – Makes clear the court can come back later and convert “fines, statutory surcharges, and probation fees” (not restitution) to community service.

Criminal Justice Reform – Part I

• Department of Community Supervision:
  – Allows DCS to provide support and supervision for the participants in accountability courts.
  – Requires them to revalidate any “risk and needs assessment instrument they are using every 5 years.

Criminal Justice Reform – Part I

• Parole – Three (3) categories of offenses:
  – Amends OCGA § § 42-5-36 and 42-8-21 defining:
    – "Serious offense" shall have the same meaning as set forth in 42-9-42 (offense we added to Code last year related to secondary parole notification).
    – "Serious violent felony" shall have the same meaning as set forth in 17-10-6.1.
    – “Qualified offense” – new term (started out as non-violent offense.
Criminal Justice Reform – Part I

• Serious offense and serious violent felonies:
  • 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.
  • Requires the parole board to consider these reports when "considering a case within its power". OCGA § 42-9-43

Criminal Justice Reform – Part I

• Serious offense and serious violent felonies:
  • Requires Parole to now give "at least 90 days' advance notification" to the DA prior to making a final decision on parole or conditional release.
  • Provide the person being considered an opportunity to submit information.
  • IF THE BOARD HOLDS A HEARING, give the DA 30 days notice and can attend and present evidence. The person being considered has the same right.

Criminal Justice Reform – Part I

• Additional Parole changes:
  – On split sentences – the Parole Board must make all terms of probation imposed by the sentencing court conditions of parole.
  – Adds "or conditional release" to all the places the Code refers to "parole" so that all the same rules apply no matter what the board calls it.
  – Parole can revoke to Department of Correction facilities and programs not to exceed 180 days.
Criminal Justice Reform – Part I

• OCGA § 42-5-45 dictates certain minimums to be served for certain offense and offenders before the board “automatically” considers them.

• OCGA § 42-5-46 – lays out the process by which the board can consider the above offenders early. Currently requires notice to the DA, court and victim.

Criminal Justice Reform – Part I

• New provision IF A HEARING IS TO BE HELD, then notice shall be provided so that they can “express their views and make their recommendation as to whether the inmate should be granted early parole.

• If objection is filed – and they do it anyway, the board must now issue a statement explaining its reasoning for doing so.

Criminal Justice Reform – Part I

• New OCGA § 42-9-61 – after the case is closed and the parole board has made its decision.

• The prosecuting attorney and the inmate may request (in writing) for access to that disciplinary report and it shall be provided along with any other document that the board “has declassified”.
Criminal Justice Reform – Part I

• Qualified Offenses - OCGA § 42-9-52:
  – A parolee who received a split sentence and has been paroled.
  – After 12 months “successfully completed” the board shall review and consider commutation of the sentence.

Criminal Justice Reform – Part II

SB 175 – Sen. John Kennedy

• 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.
  – Its 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.
  – There is a due process requirement. OCGA 15-11-39, 15-11-442, and 15-11-602 are amended to allow for these orders.

Criminal Justice Reform – Part II

• 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 [ie. not jail] where services can be effectively administered, and
  – whether consideration should be given to secure or non-secure detention.
Criminal Justice Reform – Part II

• The bill amends OCGA 15-11-656, relating to dispositions on incompetent juveniles:
  – 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 to secure the child’s attendance at court.

Criminal Justice Reform – Part II

• The bill amends OCGA 15-11-656, relating to dispositions on incompetent juveniles:
  – 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).

Criminal Justice Reform – Part III

SB 176 – Sen. John Kennedy

• Amended OCGA § 17-6-11 (b) to provide 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.
Criminal Justice Reform – Part III

• 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.

• 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.

• Amended OCGA § 17-7-90 to make clear that a bench warrant cannot be issued for failure to appear for a non-serious traffic offense unless the above provisions are followed.

• Some other DDS clean up on suspensions.

Sick Leave

SB 201 – Sen. Butch Miller

• Employees (that work at least 30 hours per week), that do not participate in a stock ownership plan, who work for an employer of 25 or more employees that provides sick leave, shall allow the employee to use sick leave for the care of an immediate family member.
  – Does not require an employer to provide sick leave
  – Employer can cap it at 5 days per calendar year.
Automated Driving Systems
SB 219 – Sen. Steve Gooch

• Authorizes “automated driving systems”.
  – “capability to perform all aspects of the dynamic driving task without a human driver”.

• As long as the “fully autonomous vehicle” remains on the scene of an accident and the operator (wherever they may be) calls law enforcement, they are in compliance with the law.

Sex Offender Registry
SB 250 – Sen. Jeff Mullis

• Amended OCGA § 42-1-15, adds registered (or persons that should be registered) sex offenders from other states to the provision that prohibits sex offenders from loitering at child care facilities, schools or any “area where minors congregate.”

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