



House Budget and Research Office

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2020 SESSION: PUBLIC SAFETY BUDGET AND LEGISLATION HIGHLIGHTS

Despite the reductions that were required to balance the FY 2021 budget to the revised estimate, the General Assembly maintained its priorities by restoring cuts and mitigating reductions to the greatest extent possible in several key areas including the criminal justice system. Highlights related to criminal justice, public safety, and the courts from the 2020 Legislative Session are outlined in the following budget and legislation summary.

Criminal Justice, Public Safety, and the Courts

- House Bill 793 restores \$1.7 million of the proposed cuts to the Georgia Bureau of Investigation's (GBI) Forensic Scientific Services program. The agency will be able to hire as many as 17 scientists and 10 lab technicians with the restored funding. This budget includes \$1 million to outsource chemistry testing, allowing approximately 5,555 pieces of evidence of the 17,000 in the backlog in chemistry to be tested. With current forensic biology staff levels, the crime lab is only able to process approximately 106 sexual assault kits a month, while the lab receives over 200 new kits monthly, constantly adding to the current backlog of 768 unprocessed kits. The addition of forensic biology scientists and lab technicians will allow the crime lab to test all sexual assault kits and eliminate the 768-kit backlog. The funding of additional scientists and lab technicians in conjunction with outsourced testing is crucial to combat the backlog and ensure crime-related evidence is processed in a timely manner.
- The FY 2021 budget supports and increases the governor's recommendation to include \$884,818 in new funding for the GBI to develop a gang database and establish a gang taskforce to assist local law enforcement agencies with the identification and investigation of gang members. 2 June 26, 2020.
- House Bill 793 restores \$3.5 million of the proposed cuts to the Criminal Justice Coordinating Council and includes an additional \$15 million to establish a law enforcement training grant program for state and local law enforcement agencies. The \$2.65 million cut to accountability courts is completely restored to allow the courts to continue diverting more non-violent offenders from jails or prisons to successful rehabilitative programs within communities. The restoration in funding equates to 1,901 participants who can be served through an accountability court instead of possibly going to prison. Accountability courts have a 3-in-4 success rate for graduates. The restoration of funding to the accountability courts represents \$34.8 million in diversion savings and \$6.7 million in economic impact. Finally, HB 793 restores \$868,190 to the Juvenile Justice Incentive Grants, which provide funding and technical support for juvenile courts to deliver treatment programs for juvenile offenders in their home communities.
- Within the Department of Public Safety, the budget provides \$2.5 million for one 50-person trooper school and restores \$206,367 for two clinician positions in the Office of Public Safety Officer Support.

- The FY 2021 budget restores \$2.1 million to the Georgia Public Defender Council, which will allow for the hiring of 22 attorneys, including filling vacant positions that left eight counties without a state public defender. Adding the 22 attorneys will reduce the average caseload from 148.8 to 131.6 per public defender. The budget also restores funding for training expenses and conflict attorney contract rates.
- House Bill 793 restores the proposed cut of \$212,718 to the Georgia Driver's Education Commission to allow for an additional 434 scholarships to support driver's education programs throughout Georgia.
- The Fiscal Year 2021 budget includes \$1.4 million to establish the Georgia State-wide Business Court and also includes \$558,963 to annualize the two new judgeships created in the Griffin and Gwinnett Judicial Circuits in the FY 2020 budget.

Judiciary, Judiciary Non-Civil, Juvenile Justice, and Public Safety Legislation

HB 426 by Rep. Chuck Efstrotation (104th) is the Hate Crime legislation. The bill requires that the prosecution must give notice to the defendant that an enhanced penalty is being sought. If the court determines beyond a reasonable doubt that the victim, group of victims, or any property is the object of the offense because of the victim's actual or perceived race, color, religion, national origin, sex, sexual orientation, gender, mental disability, or physical disability then the court can apply an enhanced penalty. HB 426 designates five misdemeanors available for enhancement: simple assault; simple battery; battery; criminal trespass; and misdemeanor theft. For these misdemeanor offenses, the sentence imposed is imprisonment for a period of at least six months but not more than 12 months with a fine not to exceed \$5,000. The enhancement can apply to any felony, with the sentence imposed of imprisonment for a period not less than two years and a fine up to \$5,000. HB 426 requires the judge to state when the sentence enhancement is imposed and the amount of the increase of the sentence due to the hate crime penalty statute. Moreover, when a law enforcement officer investigates an incident of a crime which appears to the defendant intentionally selected the victim(s) in violation of the hate crime statute, the officer must submit to his or her supervisor a written report of the incident entitled "Bias Crime Report". The report will be used for statistical purposes only, and when no arrest is made will not be subject to open records. All law enforcement must report to the Georgia Crime Information Center all incidents involving alleged criminal violations of the hate crimes statute, both arrests and non-arrests. The GBI will compile and analyze the statistics of such reports and annually publish the findings in the Georgia Uniform Crime Reports.

HB 576 by Rep. Ricky Williams (145th) reprioritizes the distribution order of payments collected from driving under the influence and reckless driving fines to move the Brain and Spinal Injury Trust Fund up from 12th to 5th in order to receive payments.

HB 823 by Rep. Houston Gaines (117th) provides that a person who knowingly uses a commercial motor vehicle in the commission of sexual or labor trafficking crimes is disqualified as a commercial driver for life.

HB 838 by Rep. Bill Hitchens (161st) renames the Office of Public Safety Officer Support at the Department of Public Safety to the Office of Public Safety Support. The legislation gives the right for a civil suit to be brought by a peace officer against any person, group of persons, organization, or corporation, for damages suffered during the officer's performance of official duties, or for filing a false complaint against the officer.

HB 911 by Rep. Ed Setzler (35th) 911 adds foster parents to the list of individuals who have authority over individuals under their care, such as teachers, therapists, and correctional officers, who can be charged with improper sexual contact in the first and second degree.

HB 1017 by Rep. Dominic LaRiccia (169th) requires indemnification payments for death suffered in the line of duty by a law enforcement officer, firefighter, emergency medical technician, emergency management specialist, state highway employee, or a prison guard to be made to the surviving, not remarried spouse; the surviving children under the age of 19, or under the age of 24 if the child is a student enrolled in an institution of postsecondary education; or any dependents not included in Georgia Code, but who are shown as dependents in the spouse's or deceased person's most recent tax return. In the case of organic brain damage suffered in the line of duty, the payment is made to the legal guardian of the organically brain-damaged person. The bill applies to claims regarding any incident giving rise to a death occurring on or after August 1, 2016.

SB 38 by Sen. William Ligon, Jr. (3rd) provides a method for the abolition of a county police department and the transfer of the law enforcement functions of that department to the sheriff of the county. A county police department may be abolished by a local Act of the General Assembly or by a resolution of the governing authority of the county. Any local Act or resolution must be approved by the electors of the county. If approved, the county police department shall be abolished 180 days following the referendum and all property, equipment, records, documents, funds, and other items in the possession or control of the county police department shall be transferred to the sheriff of the county. This Act is repealed on January 1, 2022.

SB 341 by Sen. Randy Robertson (29th) allows any law enforcement unit in the state to supplement its workforce as necessary with qualified, retired peace officers or correctional officers when a disaster or emergency has been declared by a county sheriff, a public safety director, or the governor or when there is a national emergency. Any retired officers must be in compliance with the annual training and qualification standards set for peace officers in Georgia law. Assisting officers have the same immunities and arrest powers in that location as the officers of the requesting entity only for the duration of the specific event. Any compensation is paid by the requesting entity and the officers assisting are deemed employees of the requesting entity during the event and therefore subject to the workers' compensation, overtime, and expense reimbursement provisions provided to him or her as an employee of the requesting agency.

SB 402 by Sen. Randy Robertson (29th) amends Code Section 17-6-12, relating to the discretion of courts to release a person charged with a crime on their own recognizance, to specify certain bail-restricted offenses. It renames the release of a person on his or her own recognizance without a purported dollar amount through secured means or property as an "unsecured judicial release." The bill specifies that a person charged with a bail-restricted offense shall not be released on bail on unsecured judicial release for pretrial release programs, release and diversion programs, or intervention and diversion programs. Additional references in the Code to the release of a person on "his or her own recognizance" are replaced with "unsecured judicial release." Any bond issued by an elected judge or judge sitting by designation that purports a dollar amount shall be executed in the full-face amount of the bond through secured means or shall be executed by use of property. This shall not prohibit a sheriff from releasing an inmate from custody in cases of medical emergency with consent of the judge.

SB 435 by Sen. Brian Strickland (17th) 'The First Survivors Act', provides relief to proven victims of human trafficking from sentencing and punishment for crimes committed while being trafficked. A defendant convicted and sentenced for an offense as a direct result of being the victim of human trafficking may petition the court to vacate the conviction. The petition must be submitted on the appropriate form promulgated by the attorney general, along with a copy of the defendant's criminal history background check, no earlier than six months following the conviction and sentencing for a misdemeanor and one year following a completion of sentencing for a felony. The petition may include certain documentation of the defendant's status as a victim of an offense

of human trafficking. Defendants with an outstanding warrant may not file a petition. If the prosecuting attorney consents to set aside the conviction or fails to respond to the petition within 30 days, the court shall, without notice or hearing, issue an order vacating the convictions and sentence and restrict access to criminal history record information for the offense. If the prosecuting attorney objects, the court shall hold a hearing within 90 days of the filing of the petition. If the court finds, by a preponderance of the evidence, that the defendant committed an offense as a direct result of being a victim of human trafficking, the court may issue an order vacating the conviction and sentence. If ordered, the court shall also issue an order restricting access to criminal history record information for the offense. Finally, the bill amends the Code as it relates to the Georgia Crime Information Center to allow for the restriction of access to a defendant's criminal history record information in accordance with the intent of the bill.

SB 477 by Sen. Kay Kirkpatrick (32nd) 477 allows officers to make a decision regarding mutual combat in domestic violence situations requiring an arrest about which party caused the violence and is the predominate aggressor.