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PENAL INSTITUTIONS

Probation: Provide Confinement Requirement of Ninety Days for Certain Probationers to be Fulfilled at Special Alternative Incarceration Boot Camps

CODE SECTION: O.C.G.A. § 42-8-35.1 (amended)
BILL NUMBER: SB 177
ACT NUMBER: 561
SUMMARY: The Act provides that probationers who are not less than seventeen years old and not more than thirty years old, and who are sentenced to at least one year on probation, may be required to complete a period of ninety days of confinement in a special alternative incarceration boot camp. This will apply only to probationers not suffering any mental or physical handicaps which would prevent them from engaging in strenuous activity. At least five days prior to the probationer's release from the special alternative incarceration boot camp, the Department of Corrections will certify to the trial court as to whether the individual has satisfactorily completed this condition of probation. An unsatisfactory report will be grounds for revocation of the probated sentence.

EFFECTIVE DATE: April 23, 1991

History

In his State of the State address to legislators, Governor Miller indicated his plan to phase out the early release of convicted criminals, a program initiated in April 1989 to relieve prison overcrowding.¹ Acting in part to avoid a threatened federal lawsuit, the Governor conditioned his plan upon the initiation of prison "boot camps" for less dangerous

1. Jeanne Cummings, *Miller Flexes Muscle, Shows Aggressive Style — Vows to End Early Releases, Warns of Veto*, ATLANTA J. & CONST., Jan. 17, 1991, at E1.

criminals.² The Governor intended these "boot camps," modeled after United States Marine Corps installations, to serve as an alternative to early release for nonviolent criminals.³ Instead of a sentence of possibly ten to twenty years in prison with a possibility of early release, certain nonviolent criminals, such as car thieves and burglars, would spend only a short period of confinement at a prison boot camp.⁴ Those convicted of violent crimes, such as arson, robbery, child molestation, and incest, would still be required to serve a minimum of one-third of their sentences.⁵

Another type of boot camp will be used for those offenders between the ages of seventeen and thirty who have been sentenced to at least one year of probation.⁶ Georgia was the first state to have special alternative incarceration units, in operation since 1983, called "shock incarceration units."⁷ Currently, there are two such units that house approximately five hundred young offenders for ninety days.⁸

The boot camp style facilities currently in use have proven to be more cost effective than traditional prison settings, and recidivism rates are lower for offenders who have spent time in these facilities.⁹ Media, legislators, and others interested in correctional facility management from across the country, and from as far away as Australia, have shown an interest in Georgia's program.¹⁰

SB 177

The Special Alternative Incarceration Probation Boot Camp Act amends the State-wide Probation Act by striking Code section 42-8-35.1 in its entirety and replacing it with new Code section 42-8-35.1.¹¹

The special alternative incarceration units are geared toward the youthful first-time drug offender.¹² The boot camp program is a politically driven response to the frustrations of drug problems and prison

2. Rhonda Cook, *Miller's Prison Plan, Boot Camps Tied*, ATLANTA J. & CONST., Jan. 17, 1991, at E3.

3. *Id.*

4. *Id.*

5. *Id.*

6. *Parole Board to Pick Inmates for Bootcamps*, Ga. Parole Rev., Spring 1991.

7. Telephone Interview with David Hughes, Office of Public Affairs Department of Corrections (Apr. 2, 1991) [hereinafter Hughes Interview].

8. Cook, *supra* note 2.

9. Hughes Interview, *supra* note 7.

10. *Id.*

11. O.C.G.A. § 42-8-35.1 (1991).

12. Hughes Interview, *supra* note 7.

conditions.¹³ Crime statistics tend to indicate that a great deal of crime committed by the younger population is drug related; therefore, the boot camp concept is focused on both the younger offender and those who commit drug related offenses.¹⁴ This program is intended to be viewed as an alternative to help young people get their lives turned around.¹⁵ The bed turnover is four times a year, and many young people will be helped through strict discipline and hard physical work.¹⁶ These young people will leave the facility drug free with no desire to return.¹⁷ The probation boot camps will be equipped with an educational component as well as a counseling program.¹⁸

The probation boot camps will be, to the extent possible, staffed by ex-military drill instructors.¹⁹ They will be very sparsely furnished with no luxuries such as television.²⁰ However, they will be adequate in size and include the necessary accommodations to meet federal guidelines.²¹ These guidelines specify exercise periods, square footage, and health standards.²²

The special alternative incarceration probation boot camps will be located throughout the state.²³ Stone Mountain and Putnam Correctional Institutions will be converted to probation boot camps by July 1991.²⁴ In March 1991, a probation boot camp opened in Soperton.²⁵ Other locations for probation boot camps include existing state property in Pelham (Mitchell County), Lakeland (Lanier County), and Twin City (Emanuel County).²⁶ These facilities are slated to have 224 beds each and to open in November 1992.²⁷ The boot camps can shift from probation boot camps to prison boot camps as needed.²⁸ The goal is to use the boot camps to their capacity in order to maximize their positive impact.²⁹

13. Telephone Interview with Sen. Mark Taylor (Apr. 3, 1991) [hereinafter Taylor Interview].

14. Hughes Interview, *supra* note 7.

15. *Id.*

16. *Id.*

17. *Id.*

18. Taylor Interview, *supra* note 13.

19. *Id.*

20. *Id.*

21. *Law Makers '91* (WGTV television broadcast, Feb. 2, 1991) (videotape available in Georgia State University College of Law Library).

22. *Id.*

23. *Parole Board to Pick Inmates for Boot Camps*, *supra* note 6.

24. *Id.*

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

The Pardons and Parole Board will select qualified inmates who may participate in the prison boot camps in order to help facilitate their chance for parole, while the courts will determine which probationers will be required to participate in the probation boot camps as a condition of their probation.³⁰

The only significant change occurring as a result of the Act is the increased age of qualified probationers.³¹ This change was necessary to meet the expansion plans for the probation boot camps desired by the Governor.³² By increasing the age limit from twenty-five to thirty, the probation boot camps will be available to more offenders.³³ As required by the previous Code section 42-8-35.1, the new Code section also requires that the probationer be qualified mentally and physically to participate in strenuous physical activity.³⁴ The probationer must also be free from contagious disease.³⁵

Senate Bill 177 was amended on the Senate floor to add a time condition to the delivery of the probationer to the probation boot camp in order to expedite the probationer's fulfillment of his required sentence.³⁶ The Act requires that, in its probation order, the sentencing court direct the Department of Corrections to arrange with the sheriff's office in the county of incarceration to have the probationer delivered to the designated probation boot camp unit by a specific date, not more than fifteen days from the date of the issuance of the order.³⁷ Some question arose as to the adequacy of this fifteen day period.³⁸ However, the fifteen day delivery requirement should be sufficient because many of these probationers will not spend the time between sentencing and delivery to the boot camp in jail, and there may be additional time after the plea is entered and before the probationer is sentenced.³⁹

At some time during the probationer's incarceration in the boot camp unit, at least five days prior to the scheduled release date, the Department of Corrections is required to certify to the trial court whether the individual has completed the boot camp requirement of his probation in a satisfactory manner.⁴⁰ Some question arose on the Senate floor about what might constitute a failure to complete the program and what would happen to a probationer who failed to perform in the

30. Telephone Interview with Silas Moore, Information Services Coordinator of the State Board of Pardons and Paroles (Apr. 2, 1991).

31. *Law Makers '91*, *supra* note 21; O.C.G.A. § 42-8-35.1(b) (1991).

32. Taylor Interview, *supra* note 13.

33. *Id.*

34. O.C.G.A. § 42-8-35.1(b) (1991).

35. O.C.G.A. § 42-8-35.1(c) (1991).

36. SB 177 (SFA), 1991 Ga. Gen. Assem.

37. *Id.*

38. *Law Makers '91*, *supra* note 21.

39. *Id.*

40. O.C.G.A. § 42-8-35.1(d) (1991).

program.⁴¹ As under the previous law, the determination of what constitutes a failure of the program is left to the Department of Corrections. However, the Code now provides that an unsatisfactory performance of the probationer while in the probation boot camp will lead to a revocation of the probated sentence.⁴²

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41. *Law Makers '91, supra note 21.*

42. O.C.G.A. § 42-8-35.1(e) (1991); *Law Makers '91, supra note 21.*