

**Impact of Criminal Justice Reform
on the Prosecutors**

**Potential Impact of Juvenile
Justice Legislation**

Title 40 Code Revision

House Bill 1176

Special Council on Criminal Justice Reform for Georgians

- Which crimes were changed and how will those changes impact the State Courts?
- How does the emphasis on the Accountability Courts movement affect prosecutors?
- What is the initial impact and what will be the long term benefits of HB 1176?

What has changed?

- Fees charged to a defendant for being allowed to avail themselves of a Pre-Trial Diversion Program ran by a prosecutor's office (was \$300, increased to \$1000).
- Burglary – creates two different degrees.
 - First Degree involves residential property (1 to 20 years, and up to 25 for third and subsequent).
 - Second Degree includes all others (1 to 5 years, and up to 8 years for second and subsequent)

What has changed? (cont'd)

- Theft:
 - Previously, \$500 or more considered a felony.
 - Now:
 - \$1500 or less – misdemeanor.
 - \$1500.01 to \$1499.99 – felony (1 to 5, reducible to a misdemeanor).
 - \$5000 to \$24,999.99 – felony (1 to 10, reducible to a misdemeanor).
 - \$25,000 or more – felony (2 to 20, not reducible.)

What has changed? (cont'd)

- Counterfeiting Universal Product Codes (UPCs)
 - Threshold increased to \$500 to be considered a felony.
- Forgery
 - Creates a misdemeanor.
- Deposit Account Fraud (Bad Checks)
 - Raised threshold to \$1500 to be considered a felony
- Controlled Substances
 - Dramatic reduction in lengths of sentences.
 - Creates an element related to the amount of substance being possessed.

What has changed? (cont'd)

- Accountability Courts are the future of the judicial approach to substance abuse-related cases.
 - Statistically they are having an impact on recidivism.
 - While not every member of the judiciary agrees and not every prosecutor agrees.
 - Clearly the future according to the Governor and the General Assembly.

What impact does this have on the State Courts?

- Shifting cases out of Superior Court and into State Court.
- Estimate 25-30% increase to thefts in State Court.
- Forgeries, which are investigation intensive, are now in State Court.
- Solicitors-General given additional work without additional help.
- Frees up the Superior Court to deal with the addition of weight-based prosecution in controlled substances cases.
- District Attorneys given additional responsibility without additional help.

Accountability Courts - Impact on the Prosecutors

- The state of prosecution before Accountability Courts – upon conviction case was finished.
- The state of prosecution in Drug/DUI/Mental Health/Veterans Courts
 - Active involvement for two or more years after disposition.
 - Assistant DAs/SGs often draw all orders, pleadings, etc. throughout the process.
 - Still have the same time tied up in investigation and preparation to get the case to court and still required to get the case to disposition.

Initial impact and long-term benefit of HB 1176

- Initial Impact:
 - New cases for solicitors-general and additional responsibility for the district attorneys related to weight-based prosecution.
 - Prosecutors need additional help to handle Accountability Courts and weight-based prosecutions.

Initial impact and long-term benefit of HB 1176 (cont'd)

- Long-term benefit:
 - Theft cases and related crimes transferred to State Court will receive better attention and more restitution, fines, etc.
 - Accountability Court success will reduce recidivism and have an impact on the prison population.
 - Shorter sentences on drug cases will have some impact on the prison population.

Juvenile Justice Reform and the Potential Impact

- Two different initiatives:
 - Code Reform
 - Georgia Juvenile Corrections and System Assessment

How could they impact the counties?

Juvenile Code Reform

- Any additional requirements for prosecutors will require additional personnel.
- Any additional requirements for public defenders will require additional personnel.
- Must monitor closely.
- Agree that some modifications to the Juvenile Code are justified, but cannot afford what was proposed last year. Suggest modification to the existing code where needed and to put it in a format simple enough for everyone to understand what the bill is doing.

Juvenile Correction System

- Agree that the current assessment taking place is needed.
- Use of risk assessment tools to evaluate likelihood of recidivism is helpful, but not to the exclusion of the nature of the offense committed.
- Be careful that a policy shift does not shift costs to the counties.
- Concern that the independent courts (operated by the counties) are left out of the data being relied on and that they make up nearly half of the cases in the State.
- Need to be mindful that mandates necessary for the dependent courts get forced on the independent courts (and on the counties).

Title 40 Code Revision

- History behind the issue
- Decriminalization and the unintended consequences.
 - No state has successfully decriminalized
- Goals of Traffic Code Revision

House Comprehensive Title 40 Review Committee.
Chief Justice's Minor Traffic Offense Reform
Committee.

Title 40 Code Revision

History Behind the Issue

- This issue has come up every year during my ten years of dealing with legislation.
- The November 2011 Special Council on Criminal Justice Reform for Georgians suggested *"changing minor traffic offenses from misdemeanors to violations, creating a new class of violations that are non-criminal for minor traffic offenses"*.

Title 40 Code Revision

What are we trying to accomplish?

- Reduce court time and expenditures on jury trials for minor traffic offenses (on those offenses that do not pose an immediate, direct and significant threat to public safety).
- Reduce public expenditures for attorneys to represent defendants charged only with these minor offenses.
- See that punishment for minor traffic crimes better fit the nature of the offenses.

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Why Not Decriminalize?

- Law enforcement has the authority to enforce criminal laws, not civil violations.
- Prosecutors have limited statutory authority, and not general civil jurisdiction.
- Many of our concepts of search and seizure related to traffic stops rely on the fact that all traffic violations are criminal violations.

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Why Not Decriminalize? (cont'd)

- Municipal courts have no civil jurisdiction.
- The impact of the Georgia Civil Practice Act and the provisions related to discovery would apply.
- What happens to the “add-ons” that fund so many important funds in this state?

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Impact on the Counties

- Reduces the amount of time for jury trial; however, currently takes up a very small amount of time.
- Cases would remain in the lower courts.
- Allows trial court resources to be directed to other, more serious cases.
- Eliminates the need for public defenders.
- Better delivery of court services to the public.

THE END

Questions?

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