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COURTS Prosecuting Attorneys: Give Authority to the District Attorneys in Each Judicial Circuit to Appoint One Additional Assistant District Attorney Who Shall Primarily Prosecute as Directed by the District Attorney Cases Involving Violations of Article 2 of Chapter 13 of Title 16, Known as the "Georgia Controlled Substances Act"

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COURTS

Prosecuting Attorneys: Give Authority to the District Attorneys in Each Judicial Circuit to Appoint One Additional Assistant District Attorney Who Shall Primarily Prosecute as Directed by the District Attorney Cases Involving Violations of Article 2 of Chapter 13 of Title 16, Known as the "Georgia Controlled Substances Act"

CODE SECTIONS:	O.C.G.A. §§ 15-18-14, -45 (amended)
BILL NUMBER:	SB 1
ACT NUMBER:	284
GEORGIA LAWS:	1999 Ga. Laws 365
SUMMARY:	The Act authorizes district attorneys in each judicial circuit to appoint one additional district attorney whose primary responsibility will be the prosecution of violations under the "Georgia Controlled Substances Act." The Act calls these newly appointed attorneys "special drug prosecutors." These prosecutors will be the same classification, compensation, benefits, and policies as other assistant district attorneys. Each special drug prosecutor will complete an initial training program prescribed by the Prosecuting Attorneys' Council of the State of Georgia within twelve months of their employment and any other in-service training that the council shall prescribe.
EFFECTIVE DATE:	July 1, 1999

History

Illegal drug possession and distribution often contribute to or cause many violent crimes in Georgia, and the Act's sponsors believe the Act will help the state win the war on drugs.¹ By placing a "special drug

1. See Telephone Interview with Sen. Greg Hecht, Senate District No. 34 (Apr. 22, 1999) [hereinafter Hecht Interview]. Senator Hecht was an Assistant District Attorney for Clayton County. He acted as that county's special drug prosecutor for many years.

prosecutor” in each judicial circuit, legislators believe they can cut down on repeat drug offenses and do a better job of enforcing current Georgia laws.² The Act was introduced largely through the efforts of Lieutenant Governor Mark Taylor.³ The Lieutenant Governor believed that local district attorneys needed extra help in prosecuting drug and drug-related crimes, so his campaign platform included the introduction of “special drug prosecutors” in each judicial circuit.⁴ This issue garnered tremendous support from the Senate, House, and the media mainly because of the Lieutenant Governor’s efforts.⁵

Introduction

SB 1, the Special Drug Prosecutor Act,⁶ encountered no opposition.⁷ The Senate passed SB 1 by a vote of 56-0 on January 25, 1999.⁸ On March 23, 1999, the House unanimously passed the bill subject to a House floor amendment.⁹ The following day, the Senate unanimously agreed to the House floor amendment, and on April 22, 1999, the Governor signed SB 1 into law.¹⁰ In 1998, a bill with the same language passed the Senate by a vote of 54-0 but failed to make it out of the House committees after several House members tried to add minor technical language of their own.¹¹ The authors of SB 1 incorporated that same language into the 1999 Special Drug Prosecutor Act.¹²

See id.

2. *See id.*

3. *See* Telephone Interview with Rep. Tom Buck, House District No. 135 (Apr. 22, 1999) [hereinafter Buck Interview].

4. *See* Telephone Interview with Lt. Governor Mark Taylor (May 3, 1999) [hereinafter Taylor Interview].

5. *See* Telephone Interview with Rep. Jim Martin, House District No. 47 (May 19, 1999) [hereinafter Martin Interview].

6. *See* SB 1, as introduced, 1999 Ga. Gen. Assem., § 1.

7. *See* Georgia Senate Voting Record, SB 1 (Jan. 25, 1999); Georgia House of Representatives Voting Record, SB 1 (Mar. 23, 1999).

8. *See* Georgia Senate Voting Record, SB 1 (Jan. 25, 1999).

9. *See* Georgia House of Representatives Voting Record, SB 1, (Mar. 23, 1999).

10. *See* State of Georgia Final Composite Status Sheet, May 3, 1999.

11. *See* Peter Mantius, *State Senate Approves Bill for Drug Prosecutors*, ATLANTA J. & CONST., Jan. 26, 1999, at C1.

12. *See id.*

Purpose

The purpose of the Act is to reduce drug traffic and drug-related crimes.¹³ Due to the high volume of drug-related crimes across the state, judicial circuits need a specific prosecutor dedicated to enforcing Georgia's drug laws.¹⁴ These "special drug prosecutors" will be specifically trained to draft responses to motions to suppress seized evidence, write proper search warrants based on probable cause, give police officers advice in the middle of the night, deal with drug-related forfeiture proceedings,¹⁵ and maintain drug-related convictions.¹⁶

The bill's sponsors believed every judicial circuit needed a "special drug prosecutor."¹⁷ Representative Jim Martin stated that these prosecutors are in great demand in all counties, including the less populated counties in South Georgia.¹⁸ He predicted that no circuit will underutilize the special prosecutors and no taxpayer money will be wasted.¹⁹ Under the Act, the state pays for one special drug prosecutor per judicial circuit, but the counties can also fund extra positions if the need arises.²⁰

The Act's sponsors believe that the success of the Act depends in large part on its flexibility.²¹ The district attorney in each circuit has the authority to assign the special drug prosecutor to areas where specific needs exist.²² This could include areas outside of the special drug prosecutor's specific drug-crime-related training.²³ Although this Act does not authorize district attorneys to lend their special drug prosecutors to other counties, the Act's sponsors believe that Georgia law has special need provisions, which allow for lending in some circumstances.²⁴

13. See Telephone Interview with Rep. Larry Walker, House District No. 141 (Apr. 21, 1999) [hereinafter Walker Interview].

14. See Hecht Interview, *supra* note 1.

15. See O.C.G.A. § 16-13-49 (1999). The items must be confiscated properly and the money generated from the sale of these confiscated goods can then be used to offset the costs of the special drug prosecutors. See Hecht Interview, *supra* note 1.

16. See Hecht Interview, *supra* note 1.

17. See Martin Interview, *supra* note 5.

18. See *id.*

19. See *id.*

20. See Buck Interview, *supra* note 3.

21. See *Lawmakers '99* (GPTV broadcast, Jan. 25, 1999) (remarks by Sen. Hecht) (available in Georgia State University College of Law Library).

22. See *id.*

23. See *id.*

24. See *id.*

*Versions of SB 1**From the Senate Floor to the House Floor Amendment*

Although no one directly opposed the bill, the House had budget concerns: forty-five to fifty judicial circuits could potentially have special drug prosecutors.²⁵ The state estimated that the total amount of money needed to fund the Act was \$3.6 million per year.²⁶ The Senate agreed to fund the entire amount, but the House countered by taking the necessary money out of the budget altogether.²⁷ The two chambers compromised, agreeing to fund the bill in thirds over the years 1999, 2000, and 2001.²⁸ This means that in 1999, the General Assembly allocated \$1.2 million to "special drug prosecutors".²⁹ The General Assembly will allocate \$2.4 million in 2000, and \$3.6 million in 2001.³⁰ After 2001, the legislature will set aside \$3.6 million to fund this project.³¹ The Lieutenant Governor believes that certain start-up costs for training and equipment will not re-occur, which in turn will reduce the yearly expenses associated with the Act.³²

The House floor amendment added the following language to Code section 15-18-14:

In the event that the funds appropriated or otherwise available in any fiscal year for purposes of this paragraph are sufficient to implement this paragraph in some but not all judicial circuits, the Judicial Council of Georgia shall designate the judicial circuits in which this paragraph shall be implemented for such fiscal year.³³

The Act states that the Judicial Council of Superior Court Judges shall determine which judicial circuits will receive funding in each fiscal year.³⁴ In making this determination, the Judicial Council will

25. *See id.*

26. *See* Letter from Claude L. Vickers, State Auditor, and Tim Burgess, Director, State Office of Planning and Budget, to Lt. Governor Taylor (Jan. 13, 1999) (available in Georgia State University College of Law Library).

27. *See Lawmakers '99* (GPTV broadcast, Jan. 25, 1999) (remarks by Sen. Hecht) (available in Georgia State University College of Law Library).

28. *See id.*

29. *See* Buck Interview, *supra* note 3.

30. *See id.*

31. *See id.*

32. *See* Taylor Interview, *supra* note 4.

33. *Compare* SB 1, as introduced, 1999 Ga. Gen. Assem., with SB 1 (HFA), 1999 Ga. Gen. Assem.

34. *See* O.C.G.A. § 15-18-14(b)(2) (1999); Buck Interview, *supra* note 3.

take recommendations from the Prosecuting Attorney's Council and from local district attorneys.³⁵

Proposed Senate Amendment

Eight Senate Republicans who supported the Act offered an amendment that would have required convicted criminals to serve at least ninety percent of their sentences before being eligible for parole.³⁶ The amendment would have codified into law a policy adopted by the Pardons and Paroles Board.³⁷ Senator Land introduced this as an amendment instead of a separate bill because he feared that the proposal would die in committee.³⁸ Lieutenant Governor Taylor, in his role as Senate President, stopped the Republicans' bid by ruling the amendment out of order.³⁹

Code Section 15-18-14

The Act amends this Code section by replacing all of subsection (b) relating to the appointment, qualifications, and compensation of assistant district attorneys and inserting a new subsection (b).⁴⁰ New subsection (b)(2) gives the district attorney in each judicial circuit the authority to appoint a special drug prosecutor.⁴¹

Code Section 15-18-45

The General Assembly amended this Code section by replacing it in its entirety.⁴² The amended Code section was divided into two subsections.⁴³ Subsection (a) mirrors the original Code Section 15-18-45.⁴⁴ The amended Code section contains a new subsection (b), which states that specific drug prosecutors appointed under the Act shall complete an initial training program within twelve months of

35. See Martin Interview, *supra* note 5.

36. Walter C. Jones, *Senate Passes Bill to Boost Force of Drug Prosecutors*, AUGUSTA CHRON., Jan. 26, 1999, at C11.

37. See *id.*

38. See *Lawmakers '99* (GPTV broadcast, Jan. 25, 1999) (remarks by Sen. Land) (available in Georgia State University College of Law Library).

39. See *id.*; Mantius, *supra* note 11.

40. See O.C.G.A. § 15-18-14(b) (1999).

41. Compare 1998 Ga. Laws 271, § 3, at 271 (formerly found at O.C.G.A. § 15-18-14(b)(2) (Supp. 1998)), with O.C.G.A. 15-18-14(b)(2) (1999).

42. Compare 1996 Ga. Laws 759, § 7, at 759 (formerly found at O.C.G.A. § 15-18-45 (Supp. 1998)), with O.C.G.A. § 15-18-45(a)-(b) (1999).

43. See O.C.G.A. § 15-18-45(a)-(b) (1999).

44. Compare 1996 Ga. Laws 759, § 7, at 759 (formerly found at O.C.G.A. § 15-18-45 (Supp. 1998)), with O.C.G.A. § 15-18-45(a)-(b) (1999).

appointment and certain continuing training.⁴⁵ The Code section authorizes the Prosecuting Attorneys' Council to prescribe such training.⁴⁶

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45. Compare 1996 Ga. Laws 759, § 7, at 759 (formerly found at O.C.G.A. § 15-18-45 (Supp. 1998)), with O.C.G.A. § 15-18-45(a)-(b) (1999).

46. Compare 1996 Ga. Laws 759, § 7, at 759 (formerly found at O.C.G.A. § 15-18-45 (Supp. 1998)), with O.C.G.A. § 15-18-45(a)-(b) (1999).