

O.C.G.A. § 17-10-3

GEORGIA CODE
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*** Current Through the 2016 Regular Session ***

TITLE 17. CRIMINAL PROCEDURE
CHAPTER 10. SENTENCE AND PUNISHMENT
ARTICLE 1. PROCEDURE FOR SENTENCING AND IMPOSITION OF PUNISHMENT

O.C.G.A. § 17-10-3 (2016)

§ 17-10-3. Punishment for misdemeanors generally

(a) Except as otherwise provided by law, every crime declared to be a misdemeanor shall be punished as follows:

(1) By a fine not to exceed \$1,000.00 or by confinement in the county or other jail, county correctional institution, or such other places as counties may provide for maintenance of county inmates, for a total term not to exceed 12 months, or both;

(2) By confinement under the jurisdiction of the Board of Corrections in a state probation detention center pursuant to Code Section 42-8-35.4 for a determinate term of months which shall not exceed a total term of 12 months; or

(3) If the crime was committed by an inmate within the confines of a state correctional institution, by confinement under the jurisdiction of the Board of Corrections in a state correctional institution or such other institution as the Department of Corrections may direct for a term which shall not exceed 12 months.

(b) Either the punishment provided in paragraph (1) or (2) of subsection (a) of this Code section, but not both, may be imposed in the discretion of the sentencing judge. Misdemeanor punishment imposed under either paragraph may be subject to suspension or probation. The sentencing courts shall retain jurisdiction to amend, modify, alter, suspend, or probate sentences under paragraph (1) of subsection (a) of this Code section at any time, but in no instance shall any sentence under the paragraph be modified in a manner to place a county inmate under the jurisdiction of the Board of Corrections, except as provided in paragraph (2) of subsection (a) of this Code section.

(c) In all misdemeanor cases in which, upon conviction, a six-month sentence or less is imposed, it is within the authority and discretion of the sentencing judge to allow the sentence to be served on weekends by weekend confinement or during the nonworking hours of the defendant. A weekend shall commence and shall end in the discretion of the sentencing judge, and the nonworking hours of the defendant shall be determined in the discretion of the sentencing judge; provided, however, that the judge shall retain plenary control of the defendant at all times during the sentence period. A weekend term shall be counted as serving two days of the full sentence. Confinement during the nonworking hours

of a defendant during any day may be counted as serving a full day of the sentence.

(d) In addition to or instead of any other penalty provided for the punishment of a misdemeanor involving a traffic offense, or punishment of a municipal ordinance involving a traffic offense, with the exception of habitual offenders sentenced under Code Section 17-10-7, a judge may impose any one or more of the following sentences:

(1) Reexamination by the Department of Driver Services when the judge has good cause to believe that the convicted licensed driver is incompetent or otherwise not qualified to be licensed;

(2) Satisfactory completion of a defensive driving course or defensive driving program approved by the Department of Driver Services;

(3) Within the limits of the authority of the charter powers of a municipality or the punishment prescribed by law in other courts, imprisonment at times specified by the court or release from imprisonment upon such conditions and at such times as may be specified; or

(4) Probation or suspension of all or any part of a penalty upon such terms and conditions as may be prescribed by the judge. The conditions may include driving with no further motor vehicle violations during a specified time unless the driving privileges have been or will be otherwise suspended or revoked by law; reporting periodically to the court or a specified agency; and performing, or refraining from performing, such acts as may be ordered by the judge.

(e) Any sentence imposed under subsection (d) of this Code section shall be reported to the Department of Driver Services as prescribed by law.

(f) The Department of Community Supervision shall lack jurisdiction to supervise misdemeanor offenders, except when the sentence is made concurrent to a probated felony sentence or as provided in Code Section 42-8-109.5. Except as provided in this subsection, the Department of Corrections shall lack jurisdiction to confine misdemeanor offenders.

(g) This Code section will have no effect upon any offender convicted of a misdemeanor offense prior January 1, 2001, and sentenced to confinement under the jurisdiction of the Board of Corrections or to the supervision of the Department of Corrections.

HISTORY: Orig. Code 1863, § 4209; Ga. L. 1865-66, p. 233, § 2; Code 1868, §§ 4245, 4608; Code 1873, §§ 4310, 4705; Ga. L. 1878-79, p. 54, § 1; Code 1882, §§ 4310, 4705; Ga. L. 1895, p. 63, § 2; Penal Code 1895, § 1039; Ga. L. 1908, p. 1119, § 1; Penal Code 1910, § 1065; Code 1933, § 27-2506; Ga. L. 1956, p. 161, § 4; Ga. L. 1957, p. 477, § 5; Ga. L. 1964, p. 485, § 1; Ga. L. 1970, p. 236, § 10; Ga. L. 1972, p. 600, § 1; Ga. L. 1974, p. 361, § 1; Ga. L. 1974, p. 631, § 1; Ga. L. 1976, p. 210, § 1; Ga. L. 1985, p. 283, § 1; Ga. L. 1992, p. 3221, § 2; Ga. L. 1997, p. 1526, § 1; Ga. L. 2000, p. 1643, § 1; Ga. L. 2001, p. 1030, § 2; Ga. L. 2002, p. 415, § 17; Ga. L. 2005, p. 334, § 7-4/HB 501; Ga. L. 2014, p. 710, § 1-3/SB 298; Ga. L. 2015, p. 422, § 5-32/HB 310; Ga. L. 2016, p. 443, § 13-5/SB 367.