

House Bill 1320 (COMMITTEE SUBSTITUTE)

By: Representatives Bordeaux of the 151st, Wiles of the 34th, Dix of the 76th and Benfield of the 67th

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 9-10-150 of the Official Code of Georgia Annotated, relating to grounds for continuance for members of the General Assembly and the attendance of a party or attorney, so as to provide for continuances from appellate courts and clarify an attorney's duties; to amend Code Section 17-8-26 of the Official Code of Georgia Annotated, relating to grounds for continuance for members of the General Assembly and the attendance of a party or attorney; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 9-10-150 of the Official Code of Georgia Annotated, relating to grounds for continuance for members of the General Assembly and the attendance of a party or attorney, is amended by striking said Code section and inserting in lieu thereof the following:

"9-10-150.

~~It shall be the duty of the judge of any trial court or administrative agency of this state to continue, on or without motion, any case in the court, any hearings on motions, and the response to any motion or suit, when any party thereto or his or her attorney shall, when the case or the time for the hearing, the response to the motion, or answer to the suit is reached, be absent from the court by reason of his or her membership in the General Assembly or if lead counsel in such case shall be absent, by reason of his or her service on the staff of the Lieutenant Governor, Speaker of the House of Representatives, President Pro Tempore, Speaker Pro Tempore, or the chairperson of the Judiciary Committee or Special Judiciary Committee of the Senate or House of Representatives. Any such continuance shall last during the entire length of any regular or extraordinary session thereof and during the first three weeks of any recessed or adjourned regular or extraordinary session thereof, including the first three weeks immediately following any session adjourned sine die, unless the party, in the absence of his or her attorney, or the~~

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~~attorney, in the absence of the party, shall, on the call of the case or motion, announce ready to proceed with the trial or the motion; provided, however, that where there are several attorneys engaged by a party, a continuance shall be granted upon a showing by the party or his or her other counsel that the absent counsel is necessary or desirable for the proper handling of the case. Notwithstanding any other provision of law, the period of time provided for the doing of any act in a case in which a continuance is granted shall be automatically extended by the length of the continuance upon certification by the absent counsel that (1) he or she is lead counsel in the case and (2) it is necessary for him or her to attend to the matters for which an extension is granted for the proper handling of the case. A member of the General Assembly who is a party to or the attorney for a party to a case, or any member of the staff of the Lieutenant Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Speaker Pro Tempore of the House of Representatives, or the chairperson of the Judiciary Committee or Special Judiciary Committee of either the Senate or the House of Representatives who is the lead counsel for a party to a case pending in any trial or appellate court or before any administrative agency of this state, shall be granted a continuance and stay of the case. The continuance and stay shall apply to all aspects of the case, including, but not limited to, the filing and serving of an answer to a complaint, the making of any discovery or motion, or of any response to any subpoena, discovery, or motion, and appearance at any hearing, trial, or argument. Unless a shorter length of time is requested by the member, the continuance and stay shall last the length of any regular or extraordinary session of the General Assembly and during the first three weeks following any recess or adjournment including an adjournment sine die of any regular or extraordinary session. Notwithstanding any other provision of law, rule of court, or administrative rule or regulation, the time for doing any act in the case which is delayed by the continuance provided by this Code section shall be automatically extended by the same length of time as the continuance or stay covered."~~

SECTION 2.

Code Section 17-8-26 of the Official Code of Georgia Annotated, relating to grounds for continuance for members of the General Assembly and the attendance of a party or attorney, is amended by striking said Code section and inserting in lieu thereof the following:

"17-8-26.

~~It shall be the duty of the judge of any trial court or administrative agency of this state to continue, on or without motion, any case in the court, any hearings on motions, and the response to any motion or suit, when any party thereto or his or her attorney shall, when~~

~~the case or the time for the hearing, response to the motion, or answer to the suit is reached, be absent from the court by reason of his or her membership in the General Assembly. The continuance shall extend during the entire length of any regular or extraordinary session of the General Assembly and during the first three weeks of any recessed or adjourned regular or extraordinary session thereof, including the first three weeks immediately following any session adjourned sine die, unless the party in such absence of his or her attorney or the attorney in such absence of the party shall, on the call of the case or motion, announce ready to proceed with the trial or the motion. When a case, motion, or hearing is called and is subject to continuance because the party's attorney is a member of the General Assembly, the party shall not be required to be present at the call of the case, motion, or hearing. Where there are several attorneys engaged by a party, a continuance shall be granted upon a showing by the party or his or her other counsel that the absent counsel is necessary or desirable for the proper handling of the case. Notwithstanding any other provision of law and to the extent permitted by the Constitutions of the United States and the State of Georgia, the period of time for the doing of any act in a case in which a continuance is granted shall be automatically extended by the length of the continuance upon certification by the absent counsel that (1) he or she is lead counsel in the case and (2) it is necessary for him or her to attend to the matters for which an extension is granted for the proper handling of the case. A member of the General Assembly who is a party to or the attorney for a party to a case which is pending in any trial or appellate court or before any administrative agency of this state shall be granted a continuance and stay of the case. The continuance and stay shall apply to all aspects of the case, including, but not limited to, the filing and serving of an answer to a complaint, the making of any discovery or motion, or of any response to any subpoena, discovery, or motion, and appearance at any hearing, pretrial appearance, arraignment, plea or motion calendar, trial, or argument. When a case, motion, hearing, or argument is called and is subject to a continuance or stay under this Code section due to the party's attorney's membership in the General Assembly, the party shall not be required to be present at the call of the case, motion, hearing, or argument. Unless a shorter length of time is requested by the member, the continuance and stay shall last the length of any regular or extraordinary session of the General Assembly and during the first three weeks following any recess or adjournment, including an adjournment sine die of any regular or extraordinary session. Notwithstanding any other provision of law, rule of court, or administrative rule or regulation, and to the extent permitted by the Constitutions of the United States and of the State of Georgia, the time for doing any act in the case which is delayed by the continuance or stay provided by this Code section shall be automatically extended by the same length of time as the continuance or stay covered."~~

SECTION 3.

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2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval.

SECTION 4.

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5 All laws and parts of laws in conflict with this Act are repealed.