

The Senate Judiciary Committee offered the following substitute to HB 642:

ADOPTED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
2 relating to juvenile proceedings, so as to provide for the regulation of discovery and
3 inspection in juvenile cases; to provide for conditions, limitations, and procedures with
4 respect thereto; to provide for applicability; to provide for disclosure of evidence and
5 reciprocal discovery; to provide for exceptions; to provide for continuing duties to disclose;
6 to provide for production of statements of witnesses; to provide for court orders with respect
7 to failure to comply; to provide for other matters relative to the foregoing; to provide for an
8 effective date and applicability; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
12 juvenile proceedings, is amended by adding a new Part 4A following Part 4 to read as
13 follows:

14 "Part 4A

15 15-11-43.

16 (a) *Request for discovery.* In all cases in which a child is charged with having committed
17 a delinquent act as defined in Code Section 15-11-2, other than a juvenile traffic offense,
18 the child, his or her attorney, or his or her parent or guardian shall, upon written request to
19 the person or entity having actual custody, control, or possession of the material to be
20 produced, have full access to the following for inspection, copying, or photographing:

- 21 (1) A copy of the complaint;
22 (2) A copy of the petition;
23 (3) The names and last known addresses and telephone numbers of each witness to the
24 occurrence which forms the basis of the charge;

- 1 (4) A copy of any written statement made by the child or any witness;
- 2 (5) Transcriptions, recordings, and summaries of any oral statement of the child or of
- 3 any witness, except the product of counsel;
- 4 (6) Any scientific or other report which is intended to be introduced at the hearing or that
- 5 pertains to physical evidence which is intended to be introduced;
- 6 (7) Photographs and any physical evidence which is intended to be introduced at the
- 7 hearing; and
- 8 (8) Copies of the police incident report and supplemental report, if any, regarding the
- 9 occurrence which forms the basis of the charge.

10 (b) *Reciprocal discovery*. If the child, his or her attorney, or his or her parent or guardian
11 requests disclosure of information pursuant to subsection (a) of this Code section, it shall
12 be the duty of the child, his or her attorney, or his or her parent or guardian to promptly
13 make the following available for inspection, copying, or photographing to the prosecuting
14 attorney or the entity who is prosecuting the case:

- 15 (1) The names and last known addresses and telephone numbers of each witness to the
- 16 occurrence which forms the basis of the defense;
- 17 (2) Any scientific or other report which shall be introduced at the hearing or that pertains
- 18 to physical evidence which shall be introduced; and
- 19 (3) Photographs and any physical evidence which shall be introduced at the hearing.

20 (c) *Timing of response to discovery*. A request for discovery or reciprocal discovery shall
21 be complied with promptly and not later than 48 hours prior to the adjudicatory hearing
22 except when later compliance is made necessary by the timing of the request. If the request
23 for discovery is made fewer than 48 hours prior to the adjudicatory hearing, the discovery
24 response shall be produced in a timely manner. If, subsequent to providing a discovery
25 response in compliance with this Code section, the existence of additional discovery is
26 found, it shall be promptly provided to the person making the discovery request.

27 (d) *Alibi*. (1) Upon written request by the prosecuting attorney or entity who is
28 prosecuting the case, stating the time, date, and place at which the alleged delinquent act
29 was committed, the child, his or her attorney, or his or her parent or guardian shall serve
30 upon the prosecuting attorney a written notice of the child's intention to offer a defense
31 of alibi. Such notice by the child, his or her attorney, or his or her parent or guardian shall
32 state the specific place or places at which the child claims to have been at the time of the
33 alleged delinquent act and the names, addresses, dates of birth, and telephone numbers
34 of the witnesses, if known to the child, his or her attorney, or his or her parent or
35 guardian, upon whom the child intends to rely to establish such alibi unless previously
36 supplied.

1 (2) The prosecuting attorney or entity prosecuting the case shall serve upon the child, his
 2 or her attorney, or his or her parent or guardian a written notice stating the names,
 3 addresses, dates of birth, and telephone numbers of the witnesses, if known to the state,
 4 upon whom the state intends to rely to rebut the child's evidence of alibi unless
 5 previously supplied.

6 (e) *Order granting discovery; limitations sanctions.* If a request for discovery is refused,
 7 application may be made to the court for a written order granting discovery. Motions for
 8 discovery shall certify that a request for discovery was made and was refused. An order
 9 granting discovery shall require reciprocal discovery. Notwithstanding the provisions of
 10 subsection (a) of this Code section, the court may deny, in whole or in part, or otherwise
 11 limit or set conditions concerning the discovery response upon a sufficient showing by a
 12 person or entity to whom a request for discovery is made that disclosure of the information
 13 would:

- 14 (1) Jeopardize the safety of a party, witness, or confidential informant;
- 15 (2) Create a substantial threat of physical or economic harm to a witness or other person;
- 16 (3) Endanger the existence of physical evidence;
- 17 (4) Violate a privileged communication; or
- 18 (5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or
 19 the prosecution of an adult charged with an offense arising from the same transaction or
 20 occurrence.

21 (f) *Failure to comply.* If at any time during the course of the proceedings it is brought to
 22 the attention of the court that a person or entity has failed to comply with an order issued
 23 pursuant to this Code section, the court may grant a continuance, prohibit the party from
 24 introducing in evidence the information not disclosed, or enter such other order as the court
 25 deems just under the circumstances.

26 (g) *Court discretion.* Nothing contained in this Code section shall prohibit the court from
 27 ordering the disclosure of any information that the court deems necessary and appropriate
 28 for proper adjudication.

29 (h) *Confidentiality of discovery responses.* Any material or information furnished to the
 30 child, his or her attorney, or his or her parent or guardian pursuant to this part shall remain
 31 in the exclusive custody of the child, his or her attorney, or his or her parent or guardian
 32 and shall only be used during the pendency of the case and shall be subject to such other
 33 terms and conditions as the court may provide."

34 **SECTION 2.**

1 This Act shall become effective on July 1, 2002, and shall apply to all cases in which a
2 petition is filed on or after that date.

3 **SECTION 3.**

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