

## HOUSE SUBSTITUTE TO SENATE BILL 346:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to the  
2 Civil Practice Act, so as change certain pretrial procedures; to amend Code Section 9-11-4  
3 of the Official Code of Georgia Annotated, relating to service of process in civil actions, so  
4 as to conform to the language of Federal Rule of Civil Procedure 4(f) regarding the methods  
5 of service of process in other countries in conformity with the Convention Relative to the  
6 Notification or Service Abroad of Judicial and Extrajudicial Documents; to authorize  
7 international service of process by mail when not prohibited by the government of a foreign  
8 country; to provide that after entry of an order governing a civil trial, the court in its  
9 discretion may allow additional expert witnesses to be called to testify; to provide for related  
10 matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

12 Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to the Civil Practice  
13 Act, is amended in Code Section 9-11-4, relating to service of process in civil actions, by  
14 inserting immediately after paragraph (2) of subsection (f) a new paragraph (3) to read as  
15 follows:  
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17 "(3) SERVICE UPON PERSONS IN A FOREIGN COUNTRY. Unless otherwise provided by law,  
18 service upon a person from whom a waiver has not been obtained and filed, other than  
19 an infant or an incompetent person, may be effected in a place not within the United  
20 States:

21 (A) By any internationally agreed means reasonably calculated to give notice, such as  
22 those means authorized by the Hague Convention on the Service Abroad of Judicial and  
23 Extrajudicial Documents;

24 (B) If there is no internationally agreed means of service or the applicable international  
25 agreement allows other means of service, provided that service is reasonably calculated  
26 to give notice:

27 (i) In the manner prescribed by the law of the foreign country for service in that  
28 country in an action in any of its courts of general jurisdiction;

1 (ii) As directed by the foreign authority in response to a letter rogatory or letter of  
2 request; or

3 (iii) Unless prohibited by the law of the foreign country, by:

4 (I) Delivery to the person of a copy of the summons and the complaint; or

5 (II) Any form of mail requiring a signed receipt, to be addressed and dispatched by  
6 the clerk of the court to the party to be served; or

7 (C) By other means not prohibited by international agreement as may be directed by  
8 the court."

### 9 SECTION 1.1

10 Said chapter is further amended in Code Section 9-11-16, relating to pretrial procedure,  
11 formulating issues, the pretrial order, and the pretrial calendar, by striking in its entirety  
12 subsection (b) and inserting in lieu thereof the following:

13 "(b) The court shall make an order which recites the action taken at the conference and the  
14 agreements made by the parties as to any of the matters considered and which limits the  
15 issues for trial to those not disposed of by admissions or agreements of counsel. The order,  
16 when entered, controls the subsequent course of the action unless modified at the trial to  
17 prevent manifest injustice. After entry of the pretrial order, it shall be within the discretion  
18 of the court to permit or disallow the presentation of testimony from any expert witness  
19 whose name is not contained in the pretrial order; provided, however, that if the additional  
20 expert witness is permitted to testify, any opposing party shall be permitted reasonable time  
21 to take the deposition of the additional expert witness. The court, in its discretion, may  
22 establish by rule a pretrial calendar on which actions may be placed for consideration as  
23 provided in subsection (a) of this Code section and may either confine the calendar to jury  
24 actions or to nonjury actions or extend it to all actions."

### 25 SECTION 2.

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