

The House Committee on Special Judiciary offers the following substitute to SB 206:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 14 of Title 9 of the Official Code of Georgia Annotated,
2 relating to habeas corpus procedure for persons under sentence of a state court of record, so
3 as to provide that a petition may be dismissed if it appears that the respondent has been
4 substantially prejudiced in its ability to respond to the petition by delay in its filing unless the
5 petitioner shows that it is based on grounds of which he or she could not have had knowledge
6 by the exercise of reasonable diligence before the circumstances prejudicial to the state
7 occurred or the substantial prejudice suffered by the respondent occasioned by acts or
8 omissions under the control of the state not specifically authorized by court order or state
9 law; to provide that if the petitioner is not in custody or is being detained under the authority
10 of the United States, any of the several states other than Georgia, or any foreign state, the
11 petition must be filed in the superior court or court of equivalent jurisdiction of the county
12 in which the conviction and sentence which is being challenged was imposed; to provide for
13 other matters relative to the foregoing; to provide an effective date; to repeal conflicting
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

16 Article 2 of Chapter 14 of Title 9 of the Official Code of Georgia Annotated, relating to
17 habeas corpus procedure for persons under sentence of a state court of record, is amended
18 by striking Code Section 9-14-43, relating to jurisdiction of habeas corpus proceedings, and
19 inserting in lieu thereof the following:
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21 "9-14-43.

22 A petition brought under this article must be filed in the superior court of the county in
23 which the petitioner is being detained. The superior courts of such counties shall have
24 exclusive jurisdiction of habeas corpus actions arising under this article. If the petitioner
25 is not in custody or is being detained under the authority of the United States, any of the
26 several states other than Georgia, or any foreign state, the petition must be filed in the

1 superior court or court of equivalent jurisdiction of the county in which the conviction and
2 sentence which is being challenged was imposed."

3 **SECTION 2.**

4 Said article is further amended by inserting after subsection (d) of Code Section 9-14-48,
5 relating to conduct of hearing, a new subsection (e) to read as follows:

6 "(e) A petition may be dismissed if it appears that the respondent has been substantially
7 prejudiced in its ability to respond to the petition by delay in its filing unless the petitioner
8 shows that it is based on grounds of which he or she could not have had knowledge by the
9 exercise of reasonable diligence before the circumstances prejudicial to the state occurred
10 or the substantial prejudice suffered by the respondent occasioned by acts or omissions
11 under the control of the state not specifically authorized by court order or state law."

12 **SECTION 3.**

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

15 **SECTION 4.**

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