

Senate Bill 45

By: Senators Clay of the 37th, Tanksley of the 32nd and Hamrick of the 30th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 7 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated,
2 relating to demands for trial, so as to require that a demand for trial be served on the judge
3 assigned to hear such case; to specify when a demand for trial shall expire; to provide for the
4 procedures subsequent to appeal; to provide for other matters relative to the foregoing; to
5 provide for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 7 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to
9 demands for trial, is amended by striking Code Section 17-7-170, relating to demands for
10 trial, in its entirety and inserting in lieu thereof the following:

11 "17-7-170.

12 (a) Any person against whom a true bill of indictment or an accusation is filed with the
13 clerk for an offense not affecting ~~his~~ the person's life may enter a demand for trial at the
14 court term at which the indictment or accusation is filed or at the next succeeding regular
15 court term thereafter; or, by special permission of the court, he or she may at any
16 subsequent court term thereafter demand a trial. In either case, the demand for trial shall
17 be served on the prosecutor and upon the judge to whom the case is assigned or, if the case
18 is not assigned, upon the chief judge of the judicial circuit in which the case is pending.
19 The demand shall be binding only in the court in which the demand is filed, except where
20 the case is transferred from one court to another without a request from the defendant.

21 (b) If the person is not tried when the demand is made or at the next succeeding regular
22 court term thereafter, provided at both court terms there were juries impaneled and
23 qualified to try ~~him~~ the person, ~~he~~ the person shall be absolutely discharged and acquitted
24 of the offense charged in the indictment or accusation. For purposes of computing the term
25 at which a misdemeanor must be tried under this Code section, there shall be excluded any

1 civil term of court in a county in which civil and criminal terms of court are designated;
2 and for purposes of this Code section it shall be as if such civil term was not held.

3 (c) Any demand filed pursuant to this Code section shall expire at the conclusion of the
4 trial or upon the defendant entering a plea of guilty or nolo contendere.

5 (d) If a case in which a demand for trial has been filed, as provided in this Code section,
6 is reversed on direct appeal, a new demand for trial must be filed within the term of court
7 in which the remittitur from the appellate court is received by the clerk of court or at the
8 next succeeding regular court term thereafter.

9 (e) If the case in which a demand for trial has been filed as provided in this Code section
10 results in a mistrial, the case shall be tried at the next succeeding regular term of court.

11 (f) If a demand for trial is filed in a case wherein a law enforcement officer is a material
12 witness, and the law enforcement officer is called for ordered military duty, as defined in
13 Code Section 38-2-279, the demand for trial shall be tolled during the period of time that
14 the law enforcement officer is unavailable."

15 **SECTION 2.**

16 This Act shall become effective on the first day of the month following the month in which
17 it is approved by the Governor or in which it becomes law without such approval.

18 **SECTION 3.**

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