

The Senate Judiciary Committee offered the following substitute to HB 1227 :

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 15 of the Official Code of Georgia Annotated, relating to
2 juries, so as to provide exemption from jury duty for a primary caregiver of a child who is
3 four years of age or younger; to provide an exemption from jury duty for a primary teacher
4 of children in a home study program; to provide the state and the accused with same number
5 of peremptory challenges in misdemeanor, felony, and death penalty cases, and in
6 challenging alternate jurors; to provide the manner in which peremptory challenges are made;
7 to change the size of the jury panel in felony and death penalty cases; to provide the manner
8 in which the number of alternative jurors is determined; to amend Code Section 17-8-4 of
9 the Official Code of Georgia Annotated, relating to the procedure for trial of jointly indicted
10 defendants and other matters relating to jointly indicted defendants, so as to provide the state
11 with an equal number of additional peremptory challenges in trials for jointly indicted
12 defendants; to provide for related matters; to provide an effective date; to provide for
13 applicability; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15 Chapter 12 of Title 15 of the Official Code of Georgia Annotated, relating to juries, is
16 amended in Code Section 15-12-1, relating to exemptions from jury duty, by striking
17 subsection (a) and inserting in lieu thereof the following:
18

19 "(a)(1) Any person who shows that he or she will be engaged during his or her term of
20 jury duty in work necessary to the public health, safety, or good order or who shows other
21 good cause why he or she should be exempt from jury duty may be excused by the judge
22 of the court to which he or she has been summoned or by some other person who has
23 been duly appointed by order of the chief judge to excuse jurors. Such a person may
24 exercise such authority only after the establishment by court order of guidelines
25 governing excuses. Any order of appointment shall provide that, except for permanently
26 mentally or physically disabled persons, all excuses shall be deferred to a date and time

1 certain within that term or the next succeeding term or shall be deferred as set forth in the
2 court order.

3 (2) Notwithstanding paragraph (1) of this subsection, any person who is a full-time
4 student at a college, university, vocational school, or other postsecondary school who,
5 during the period of time the student is enrolled and taking classes or exams, requests to
6 be excused or deferred from jury duty shall be excused or deferred from jury duty.

7 (3) Notwithstanding paragraph (1) of this subsection, any person who is the primary
8 caregiver having active care and custody of a child ~~under~~ four years of age or younger,
9 who executes an affidavit on a form provided by the court stating that such person is the
10 primary caregiver having active care and custody of a child ~~under~~ four years of age or
11 younger and stating that such person has no reasonably available alternative child care,
12 and who requests to be excused or deferred shall be excused or deferred from jury duty.
13 It shall be the duty of the court to provide affidavits for the purpose of this subsection.

14 (4) Notwithstanding paragraph (1) of this subsection, any person who is a primary
15 teacher in a home study program as defined in subsection (c) of Code Section 20-2-690
16 who, during the period of time the person is teaching, requests to be excused or deferred
17 from jury duty shall be excused or deferred from jury duty."

18 SECTION 2.

19 Said chapter is further amended by striking Code Section 15-12-125, relating to demand of
20 jury panels in misdemeanor trials, and inserting in lieu thereof the following:

21 "15-12-125.

22 For the trial of misdemeanors in all courts, each party may demand a full panel of 12
23 competent and impartial jurors from which to select a jury. When one or more of the
24 regular panel of trial jurors is are absent or for any reason disqualified, the judge, at the
25 request of counsel for either party, shall cause the panel to be filled by additional
26 competent and impartial jurors to the number of 12 before requiring the parties or their
27 counsel to strike a jury. From this panel, the ~~accused shall have the right to challenge four~~
28 ~~peremptorily, defendant and the state two shall each have the right to challenge three jurors~~
29 ~~peremptorily. The defendant and the state shall exercise their challenges as provided in~~
30 Code Section 15-12-166. The remaining six jurors shall constitute the jury."

31 SECTION 3.

32 Said chapter is further amended by striking Code Section 15-12-160, relating to the required
33 panel of jurors in felony trials and the summoning of tales jurors, and inserting in lieu thereof
34 the following:

1 "15-12-160.

2 When any person stands indicted for a felony, the court shall have impaneled ~~30~~ 24 jurors
 3 from which the defense and prosecution may strike jurors; provided, however, in any case
 4 in which the state announces its intention to seek the death penalty, the court shall have
 5 impaneled ~~42~~ 32 jurors from which the defense and state may strike jurors. If, for any
 6 reason, after striking from the panel there remain less than 12 qualified jurors to try the
 7 case, the presiding judge shall summon such numbers of persons who are competent jurors
 8 as may be necessary to provide a full panel. In making up the panel or successive panels,
 9 the presiding judge shall draw the tales jurors from the jury box of the county and shall
 10 order the sheriff to summon them."

11 SECTION 4.

12 Said chapter is amended further by striking Code Section 15-12-165, relating to the number
 13 of peremptory challenges of jurors, and inserting in lieu thereof the following:

14 "15-12-165.

15 Every person ~~indicted for a crime or offense~~ accused of a felony may peremptorily
 16 challenge ~~12~~ six of the jurors impaneled to try him or her. The state shall be allowed
 17 ~~one-half~~ the same number of peremptory challenges allowed to the ~~accused~~ defendant;
 18 provided, however, in any case in which the state announces its intention to seek the death
 19 penalty, the ~~person indicted for the crime~~ defendant may peremptorily challenge ~~20~~ ten
 20 jurors and the state shall be allowed ~~one-half~~ the same number of peremptory challenges
 21 ~~allowed to the accused.~~"

22 SECTION 5.

23 Said chapter is amended further by striking Code Section 15-12-166, relating to jurors not
 24 challenged are to be sworn, and inserting in lieu thereof the following:

25 "15-12-166.

26 If a juror is found competent ~~and is not challenged peremptorily by the state, he shall be~~
 27 ~~put upon the accused,~~ the defendant and the state shall exercise their peremptory challenges
 28 with the state exercising the first challenge. Unless the parties and the court agree to
 29 another procedure, peremptory challenges shall be exercised in a manner so that the
 30 challenges shall not be heard by the jurors. Unless ~~he~~ the juror is challenged peremptorily
 31 by the ~~accused~~ defendant or the state, the juror shall be sworn to try the case."

32 SECTION 6.

33 Said chapter is amended further by striking Code Section 15-12-169, relating to the manner
 34 of selecting alternate jurors, and inserting in lieu thereof the following:

1 "15-12-169.

2 Alternate jurors must be drawn from the same source and in the same manner and have the
 3 same qualifications as the jurors already sworn. They shall be subject to the same
 4 examination and challenges. The number of alternative jurors shall be determined by the
 5 court. The state and the defendant shall be entitled to as many peremptory challenges to
 6 alternate jurors as there are alternate jurors called. ~~The defendant shall be entitled to~~
 7 ~~additional peremptory challenges in an amount twice greater than the additional~~
 8 ~~peremptory challenges of the state.~~ The peremptory challenges allowed to the state and to
 9 the defendant in such event shall be in addition to the regular number of peremptory
 10 challenges allowed in criminal cases to the defendant and to the state as provided by law.
 11 When two or more defendants are tried jointly, ~~each defendant shall be entitled to as many~~
 12 ~~peremptory challenges to alternate jurors as there are alternate jurors called~~ the number and
 13 manner of exercising peremptory challenges shall be determined as provided in Code
 14 Section 17-8-4."

15 SECTION 7.

16 Code Section 17-8-4 of the Official Code of Georgia Annotated, relating to the procedure for
 17 trial of jointly indicted defendants and other matters relating to jointly indicted defendants,
 18 is amended by striking said Code section and inserting in lieu thereof the following:

19 "17-8-4.

20 (a) When two or more defendants are jointly indicted for a capital offense, any defendant
 21 so electing shall be separately tried unless the state shall waive the death penalty. When
 22 indicted for a capital felony when the death penalty is waived, or for a felony less than
 23 capital, or for a misdemeanor, such defendants may be tried jointly or separately in the
 24 discretion of the trial court. In any event, a jointly indicted defendant may testify for
 25 another jointly indicted defendant or on behalf of the state. When separate trials are
 26 ordered in any case, the defendants shall be tried in the order requested by the state. If the
 27 offense requires joint action and concurrence of two or more persons, acquittal or
 28 conviction of one defendant shall not operate as acquittal or conviction of others not tried.

29 (b) When two or more defendants are tried jointly for a crime or offense, such defendants
 30 shall be entitled to the same number of strikes as a single defendant if tried separately. The
 31 strikes shall be exercised jointly by the defendants or shall be apportioned among the
 32 defendants in the manner the court shall direct. In the event two or more defendants are
 33 tried jointly, the court, upon request of the defendants, acting in its sole discretion, may
 34 allow an equal number of additional strikes to the defendants, not to exceed five each, as
 35 the court shall deem necessary, to the ends that justice may prevail. The court shall allow
 36 the state the same number of additional strikes as are allowed to the defendants."

SECTION 8.

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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 9.

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5 This Act shall apply to all trials that commence on or after the effective date of this Act.

SECTION 10.

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