

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:**

15 **SECTION 1.**

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

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

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

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

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

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

## SECTION 2.

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

"15-12-125.

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

### SECTION 3.

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

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

**SECTION 9.**

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

**SECTION 10.**

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