

House Bill 1000

By: Representatives Day of the 163rd, Neal of the 1st, Horne of the 71st, Chambers of the 81st,
and Cox of the 102nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 16 of Title 15 of the Official Code of Georgia Annotated,
2 relating to general provisions relative to sheriffs, so as to provide for the responsibility and
3 duties of the sheriff regarding courthouse and courtroom security; to provide notice and
4 hearing; to provide for factors to consider in determining appropriate security measures; to
5 provide for instruction to the jury; to provide for related matters; to provide for an effective
6 date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 1 of Chapter 16 of Title 15 of the Official Code of Georgia Annotated, relating to
10 general provisions relative to sheriffs, is amended by replacing a repealed Code section
11 designated as Code Section 15-16-17 with the following:

12 "15-16-17.

13 (a) The sheriff has official responsibility for security systems, measures, and precautions
14 for the courthouse and each individual courtroom, including any defendant's restraints that
15 will not in the ordinary course of the trial be visible to jury members or persons eligible for
16 selection as members of the jury.

17 (b) With regard to any jury trial in a criminal case, it shall be the duty of the sheriff to
18 provide written notice to the presiding judge of the security plan for each defendant before
19 the commencement of voir dire or jury selection. If the security plan for a criminal
20 defendant includes restraint of the defendant in the presence of jury members or persons
21 eligible for selection for a jury for such trial, the presiding judge shall conduct a hearing
22 on the record, with an opportunity for the defendant's counsel and the prosecuting attorney
23 to be heard and to present evidence regarding the plan for such restraint. After hearing
24 counsel, the presiding judge shall state his or her opinion for the record. The sheriff shall
25 have the responsibility to determine whether to use any restraint that will not in the

1 ordinary course of the trial be visible to jury members or persons eligible for selection as
2 jurors in the trial.

3 (c) In determining the security plan before the hearing and in determining whether to alter
4 such security plan after the hearing, the sheriff shall consider the following factors:

5 (1) The opinion of the judge presiding at the trial;

6 (2) Evidence presented at the hearing;

7 (3) Any previous escapes from custody or escape attempts by the defendant;

8 (4) Any history of violence by the defendant;

9 (5) Any threats by the defendant;

10 (6) The defendant's constitutional right to a fair and impartial trial; and

11 (7) Any other factor relating to the public safety.

12 (d) During a jury trial in any criminal case, the court shall instruct the jury that criminal
13 defendants are frequently restrained as a precaution in the interest of public safety and that
14 members of the jury should not consider any restraint of the defendant that they observe
15 as evidence of guilt. Such instruction shall not state whether the defendant is being
16 restrained."

17 **SECTION 2.**

18 This Act shall become effective on July 1, 2006.

19 **SECTION 3.**

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