

Senate Bill 421

By: Senators Unterman of the 45th, Balfour of the 9th, Shafer of the 48th and Kemp of the 46th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure,
2 so as to provide that arresting officers in certain cases may issue a nontraffic misdemeanor
3 citation and release the person cited on his or her recognizance; to provide for the
4 development, form, contents, and use of a nontraffic misdemeanor citation form; to provide
5 for accountability; to provide for the conditions for the issuance of such citation; to authorize
6 the use of such citation for the purposes of prosecuting such offense; to provide that the use
7 of such citation shall not bar subsequent issuance of a warrant, indictment, or accusation; to
8 provide that a person cited shall submit to post-arrest processing as required by law; to
9 amend Code Section 16-10-51 of the Official Code of Georgia Annotated, relating to bail
10 jumping, to include individuals who were released on their own recognizance pursuant to the
11 issuance of a nontraffic misdemeanor citation; to provide for other related matters; to provide
12 for effective dates and applicability; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
16 amended by adding a new Article 5 to Chapter 4, relating to arrest of persons, to read as
17 follows:

18 "ARTICLE 5

19 17-4-80.

20 The commissioner of public safety shall develop a uniform nontraffic citation and
21 complaint form for use by all law enforcement officers who are empowered to enforce the
22 criminal laws and ordinances in effect in this state. Such form may serve as the citation,
23 summons, accusation, or other instrument of prosecution of the offense or offenses for
24 which the accused is charged as provided in this article, and as the record of the disposition

1 of the matter by the court before which the accused is brought, and shall contain such other
2 matter as the commissioner shall provide. Each such form shall have a unique identifying
3 number which may serve as the docket number for the court having jurisdiction of the
4 accused.

5 17-4-81.

6 The Board of Public Safety, by rule and regulation, shall establish a system of
7 accountability for all nontraffic citations and complaints, and it shall also provide the
8 procedures governing the use and issuance of such citations and complaints in accordance
9 with the provisions of this article.

10 17-4-82.

11 (a) A law enforcement officer empowered by law to make an arrest for a criminal
12 misdemeanor offense shall have the discretion to issue a nontraffic citation and complaint
13 to any person whom he or she has reasonable grounds to believe has committed a nontraffic
14 misdemeanor in the presence of the officer or within the immediate knowledge of the
15 officer. A nontraffic citation and complaint may be issued in the field or at the
16 headquarters or any precinct station of the law enforcement agency of the officer instead
17 of or subsequent to a lawful arrest.

18 (b) A law enforcement officer may issue a nontraffic citation and complaint if:

19 (1) The accused provides reasonable evidence of proper identification;

20 (2) The accused agrees to acknowledge receipt of the citation and of his or her obligation
21 to appear for trial. The officer shall advise the person that signing the citation is not an
22 admission of guilt and that failure to sign will result in the person having to post bond.
23 If the person refuses to sign the citation, it shall constitute reasonable cause to believe that
24 the person will not appear at trial and the officer shall not be authorized to issue such
25 citation and shall proceed to arrest and bring the person before a judicial officer as is
26 otherwise provided by law;

27 (3) The accused can show reasonably sufficient evidence of ties to the community;

28 (4) The accused reasonably appears to not represent a danger of harm to himself or
29 herself, another person, or property;

30 (5) The accused has not previously failed to appear or failed to respond to a citation or
31 other criminal court notices;

32 (6) Arrest and further detention of the accused does not appear to be necessary to carry
33 out legitimate investigative action; and

34 (7) There is not a reasonable likelihood that the offense or offenses would continue or
35 resume.

1 (c) An accused shall not be eligible to receive a nontraffic citation and complaint under
2 this article if the misdemeanor offense is an act of family violence as defined in Code
3 Section 19-13-1 or if the accused is on probation or parole or has any outstanding warrants
4 for his or her arrest.

5 17-4-83.

6 (a) The nontraffic citation and complaint form developed by the commissioner of public
7 safety pursuant to this article shall be designed to:

8 (1) Identify the offense and Code section which the person is alleged to have violated,
9 including the date of the offense and, if material, the property and persons involved in the
10 offense;

11 (2) Record the name, address, telephone number, and other identifying information of
12 the person cited;

13 (3) Identify the law enforcement agency and the officer issuing the citation;

14 (4) Direct the person cited to appear for arraignment in a designated court at a designated
15 time and place; and

16 (5) List the name, address, and telephone number of the victim and witnesses or indicate
17 that such information will be contained within a report made by the arresting officer with
18 instructions on how to obtain such report.

19 (b) Except for offenses tried in the superior courts, all other courts having jurisdiction of
20 the offense charged in the nontraffic citation and complaint may proceed with the
21 adjudication of the offenses contained within the complaint without the necessity of filing
22 an indictment or other accusation in order to bring the accused to trial.

23 (c) A copy of the citation shall be delivered to the person cited and the original shall be
24 filed with the prosecuting officer of the designated court.

25 (d) If the prosecuting officer of the designated court decides to prosecute the offense or
26 offenses charged, he or she may file the nontraffic citation and complaint with the
27 designated court as the charging accusation or summons or the prosecuting attorney may
28 substitute his or her own accusation pursuant to Code Section 17-7-71. If the prosecuting
29 attorney declines to prosecute, he or she shall notify the law enforcement agency which
30 issued the citation and shall also notify the accused that the accused shall not be required
31 to appear as directed in the citation.

32 17-4-84.

33 The issuance of a nontraffic citation and complaint shall not bar the subsequent issuance
34 of an arrest warrant, accusation, or indictment for the same offense.

1 17-4-85.

2 Any person charged in a nontraffic citation and complaint with committing a criminal
3 offense requiring that such person submit to post-arrest processing, which shall be deemed
4 to include, but not be limited to, being fingerprinted, described, photographed, and other
5 pertinent identifying data obtained, shall submit to such post-arrest processing either at the
6 time of arrest, arraignment, or as thereafter directed by the court."

7 **SECTION 2.**

8 Said title is further amended by adding a new paragraph (3) to subsection (b) of Code Section
9 17-7-71, relating to trial of misdemeanors, to read as follows:

10 "(3) In all misdemeanor cases arising out of violations of the laws of this state for which
11 a nontraffic citation and complaint was issued, the defendant may be tried upon the
12 citation provided for in Article 5 of Chapter 4 of this title."

13 **SECTION 3.**

14 Code Section 16-10-51 of the Official Code of Georgia Annotated, relating to bail jumping,
15 is amended by striking subsection (b) and inserting in lieu thereof a new subsection (b) to
16 read as follows:

17 "(b)(1) Any person who has been charged with or convicted of the commission of a
18 misdemeanor and has been set at liberty on bail or on his or her own recognizance upon
19 the condition that he or she will subsequently appear at a specified time and place
20 commits the offense of misdemeanor-bail jumping if, after actual notice to the defendant
21 in open court or notice to the person by mailing to his or her last known address or
22 otherwise being notified personally in writing by a court official or officer of the court,
23 he or she fails without sufficient excuse to appear at that time and place.

24 (2) Any person who has been charged with the commission of a misdemeanor and has
25 been set at liberty on his or her own recognizance pursuant to the issuance of a nontraffic
26 citation and complaint upon the condition that he or she will subsequently appear at a
27 specified time and place commits the offense of misdemeanor-bail jumping if he or she
28 fails without sufficient excuse to appear at that time and place.

29 (3) A person convicted of the offense of misdemeanor-bail jumping shall be guilty of a
30 misdemeanor."

31 **SECTION 4.**

32 For the purposes of developing the form of the nontraffic citation and complaint and
33 promulgating any rules and regulations required for its use, this Act shall become effective
34 upon its approval by the Governor or upon its becoming law without such approval. The

1 remaining portions of this Act shall become effective on July 1, 2006, and shall apply to all
2 offenses committed on or after such date.

3 **SECTION 5.**

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