

SENATE SUBSTITUTE TO HB 1421

AS PASSED SENATE

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 change provisions relating to notices and pleadings in criminal proceedings; to
3 change provisions relating to demand for trial and announcement of readiness for trial; to
4 require a demand for speedy trial be filed and served as a separate document and labeled as
5 a demand for speedy trial; to change provisions relating to demand for speedy trial and
6 service of such demand; to provide for procedures relating to demand for speedy trial in
7 capital cases; to correct cross-references; to provide for enhanced sentences in any case in
8 which the trier of fact determines beyond a reasonable doubt that the defendant who is age
9 18 or over and intentionally selects any victim or any property as the object of the offense
10 because of the victim's race, religion, gender, national origin, or sexual orientation; to amend
11 Code Section 38-3-62 of the Official Code of Georgia Annotated, relating to suspension or
12 tolling of deadlines and time schedules in the event of a judicial emergency, so as to correct
13 a cross-reference; to provide for other related matters; to repeal conflicting laws; and for
14 other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

16 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
17 amended by striking Code Section 17-7-170, relating to demands for trial, and inserting in
18 lieu thereof the following:

19 "17-7-170.

20 (a) Any ~~person~~ defendant against whom a true bill of indictment or an accusation is filed
21 with the clerk for an offense not affecting the ~~person's~~ defendant's life may enter a demand
22 for speedy trial at the court term at which the indictment or accusation is filed or at the next
23 succeeding regular court term thereafter; or, by special permission of the court, ~~he or she~~
24 the defendant may at any subsequent court term thereafter demand a speedy trial. In either
25 case, the demand for speedy trial shall be filed with the clerk of court and served upon the
26

1 prosecutor and upon the judge to whom the case is assigned or, if the case is not assigned,
 2 upon the chief judge of the court in which the case is pending. A demand for speedy trial
 3 filed pursuant to this Code section shall be filed as a separate, distinct, and individual
 4 document and shall not be a part of any other pleading or document. Such demand shall
 5 clearly be titled 'Demand for Speedy Trial'; reference this Code section within the pleading;
 6 and identify the indictment number or accusation number for which such demand is being
 7 made. The demand for speedy trial shall be binding only in the court in which the demand
 8 for speedy trial is filed, except where the case is transferred from one court to another
 9 without a request from the defendant.

10 (b) If the ~~person~~ defendant is not tried when the demand for speedy trial is made or at the
 11 next succeeding regular court term thereafter, provided that at both court terms there were
 12 juries impaneled and qualified to try the ~~person;~~ defendant, the ~~person~~ defendant shall be
 13 absolutely discharged and acquitted of the offense charged in the indictment or accusation.
 14 For purposes of computing the term at which a misdemeanor must be tried under this Code
 15 section, there shall be excluded any civil term of court in a county in which civil and
 16 criminal terms of court are designated; and for purposes of this Code section it shall be as
 17 if such civil term was not held.

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

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

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

27 SECTION 2.

28 Said title is further amended by striking Code Section 17-7-171, relating to time for demand
 29 for trial in capital cases, and inserting in lieu thereof the following:

30 "17-7-171.

31 (a) Any person accused of a capital offense may enter a demand for speedy trial at the term
 32 of court at which the indictment is found or at the next succeeding regular term thereafter;
 33 or, by special permission of the court, ~~he~~ the defendant may at any subsequent term
 34 thereafter demand a speedy trial. The demand for speedy trial shall be filed with the clerk
 35 of court and served upon the prosecutor and upon the judge to whom the case is assigned
 36 or, if the case is not assigned, upon the chief judge of the court in which the case is

1 pending. A demand for trial filed pursuant to this Code section shall be filed as a separate,
 2 distinct, and individual document and shall not be a part of any other pleading or document.
 3 Such demand shall clearly be titled 'Demand for Speedy Trial'; reference this Code section
 4 within the pleading; and identify the indictment number or accusation number for which
 5 such demand is being made. The demand for speedy trial shall be binding only in the court
 6 in which such demand is filed, except where the case is transferred from one court to
 7 another without a request from the defendant.

8 (b) If more than two regular terms of court are convened and adjourned after the term at
 9 which the demand for speedy trial is filed and the defendant is not given a trial, then ~~he~~ the
 10 defendant shall be absolutely discharged and acquitted of the offense charged in the
 11 indictment, provided that at both terms there were juries impaneled and qualified to try the
 12 defendant and provided, further, that the defendant was present in court announcing ready
 13 for trial and requesting a trial on the indictment.

14 (c) In cases involving a capital offense for which the death penalty is sought, if a demand
 15 for speedy trial is entered, the counting of terms under subsection (b) of this Code section
 16 shall not begin until the convening of the first term following the completion of pretrial
 17 review proceedings in the Supreme Court under Code Section 17-10-35.1."

18 SECTION 3.

19 Said title is further amended by striking Code Section 17-7-172, relating to requirement of
 20 announcement of readiness for trial prior to announcement by defendant, and inserting in lieu
 21 thereof the following:

22 "17-7-172.

23 The state shall be required in every case to announce ready or not ready for trial, except in
 24 those cases where the defendant is entitled by law to demand a speedy trial, before the
 25 defendant shall be called on to make such announcement."

26 SECTION 4.

27 Said title is further amended by striking Code Section 17-8-21, relating to when a showing
 28 for a continuance is required of the state, and inserting in lieu thereof the following:

29 "17-8-21.

30 In all cases in which the defendant cannot, according to law, demand a speedy trial, a
 31 continuance shall not be granted to the state, except upon a reasonable showing therefor."

32 SECTION 5.

33 Said title is further amended by striking subsection (c) of Code Section 17-8-31, relating to
 34 grounds for granting of continuances, and inserting in lieu thereof the following:

