

## 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:

1 "(c) In cases in which a demand for speedy trial has been filed in accordance with Code  
 2 Section 17-7-170 or 17-7-171, the court shall grant the continuance if the party moving for  
 3 a continuance pursuant to subsection (b) of this Code section establishes by testimony,  
 4 affidavits, or other evidence that:

5 (1) The witness is material and necessary;

6 (2) The witness is located outside the territorial limits of the state;

7 (3) The party has submitted a request to the proper military authorities for the testimony  
 8 of the witness in accordance with Section 301 of Title 5 of the United States Code and  
 9 federal regulations or directives issued by the armed forces pursuant thereto; and

10 (4) The witness will not be available within the time limits prescribed by Code Section  
 11 17-7-170 or 17-7-171.

12 This continuance shall toll the running of the demand for speedy trial and shall continue  
 13 the trial until the witness is released from active duty or the military makes the witness  
 14 available to testify. If the witness only becomes available to testify within the last two  
 15 weeks of the term of court in which the case must be tried, the case may be tried at the next  
 16 succeeding term of court."

#### 17 SECTION 5.1.

18 Said title is further amended by striking the introductory language in subsection (a) of Code  
 19 Section 17-10-17, relating to sentencing of defendants guilty of crimes involving bias or  
 20 prejudice, circumstances, and parole, and inserting in lieu thereof the following:

21 "(a) Subject to the notice requirement provided in Code Section 17-10-18 and in  
 22 enhancement of the penalty imposed, if the trier of fact determines beyond a reasonable  
 23 doubt that the defendant who is age 18 or over and intentionally selects any victim or any  
 24 property of the victim as the object of the offense because of ~~bias or prejudice~~ the victim's  
 25 race, religion, gender, national origin, or sexual orientation, the judge imposing sentence  
 26 may:"

#### 27 SECTION 6.

28 Code Section 38-3-62 of the Official Code of Georgia Annotated, relating to suspension or  
 29 tolling of deadlines and time schedules in the event of a judicial emergency, is amended by  
 30 striking paragraph (3) and inserting in lieu thereof the following:

31 "(3) The time within which to try a case for which a demand for speedy trial has been  
 32 filed;"

#### 33 SECTION 7.

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