

The House Committee on Judiciary offers the following substitute to HB 24:

A BILL TO BE ENTITLED

AN ACT

1 To amend the Official Code of Georgia Annotated so as to substantially revise, supersede,
 2 and modernize provisions relating to evidence; to provide for legislative findings; to provide
 3 for definitions; to provide for general provisions; to provide for judicial notice; to provide
 4 for parol evidence; to provide for admission of relevant evidence; to provide for testimonial
 5 privileges; to provide for competency of witnesses; to provide for opinions and expert
 6 testimony; to provide for and define hearsay; to provide for authentication and identification
 7 of writings, recordings, and photographs; to provide for the best evidence rule; to provide for
 8 establishment of lost records; to provide for medical and other confidential information; to
 9 provide for securing attendance of witnesses and production and preservation of evidence;
 10 to provide for proof generally; to amend Title 35 of the Official Code of Georgia Annotated,
 11 relating to law enforcement officers and agencies, so as to move provisions relating to DNA
 12 analysis of persons convicted of certain crimes from Title 24 to Title 35; to change
 13 provisions relating to foreign language interpreters and interpreters for the hearing impaired;
 14 to amend the Official Code of Georgia Annotated so as to conform provisions to the new
 15 Title 24 and correct cross-references; to provide for effective dates and applicability; to
 16 repeal conflicting laws; and for other purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 It is the intent of the General Assembly in enacting this Act to adopt the Federal Rules of
 20 Evidence, as interpreted by the Supreme Court of the United States and the United States
 21 circuit courts of appeal as of January 1, 2012, to the extent that such interpretation is
 22 consistent with the Constitution of Georgia. Where conflicts were found to exist among the
 23 decisions of the various circuit courts of appeal interpreting the federal rules of evidence, the
 24 General Assembly considered the decisions of the 11th Circuit Court of Appeals. It is the
 25 intent of the General Assembly to revise, modernize, and reenact the general laws of this
 26 state relating to evidence while adopting, in large measure, the Federal Rules of Evidence.

H. B. 24 (SUB)

27 The General Assembly is cognizant that there are many issues regarding evidence that are
 28 not covered by the Federal Rules of Evidence and in those situations the former provisions
 29 of Title 24 have been retained. Unless displaced by the particular provisions of this Act, the
 30 General Assembly intends that the substantive law of evidence in Georgia as it existed on
 31 December 31, 2011, be retained.

32 **SECTION 2.**

33 The Official Code of Georgia Annotated is amended by repealing in its entirety Title 24,
 34 relating to evidence, and enacting a new Title 24 to read as follows:

35 "TITLE 24

36 CHAPTER 1

37 ARTICLE 1

38 24-1-1.

39 The object of all legal investigation is the discovery of truth. Rules of evidence shall be
 40 construed to secure fairness in administration, eliminate unjustifiable expense and delay,
 41 and promote the growth and development of the law of evidence to the end that the truth
 42 may be ascertained and proceedings justly determined.

43 24-1-2.

44 (a) The rules of evidence shall apply in all trials by jury in any court in this state.

45 (b) The rules of evidence shall apply generally to all nonjury trials and other fact-finding
 46 proceedings of any court in this state subject to the limitations set forth in subsections (c)
 47 and (d) of this Code section.

48 (c) The rules of evidence, except those with respect to privileges, shall not apply in the
 49 following situations:

50 (1) The determination of questions of fact preliminary to admissibility of evidence when
 51 the issue is to be determined by the court under Code Section 24-1-104;

52 (2) Criminal proceedings before grand juries;

53 (3) Proceedings for extradition or rendition;

54 (4) Proceedings for revoking parole;

55 (5) Proceedings for the issuance of warrants for arrest and search warrants except as
 56 provided by subsection (b) of Code Section 17-4-40;

57 (6) Proceedings with respect to release on bond;

58 (7) Dispositional hearings and custody hearings in juvenile court; or

59 (8) Contempt proceedings in which the court, pursuant to subsection (a) of Code Section
 60 15-1-4, may act summarily.

61 (d)(1) In criminal commitment or preliminary hearings in any court, the rules of evidence
 62 shall apply except that hearsay shall be admissible.

63 (2) In in rem forfeiture proceedings, the rules of evidence shall apply except that hearsay
 64 shall be admissible in determining probable cause or reasonable cause.

65 (3) In presentence hearings, the rules of evidence shall apply except that hearsay and
 66 character evidence shall be admissible.

67 (4) In administrative hearings, the rules of evidence as applied in the trial of nonjury civil
 68 actions shall be followed, subject to special statutory rules or agency rules as authorized
 69 by law.

70 (e) Except as modified by statute, the common law as expounded by Georgia courts shall
 71 continue to be applied to the admission and exclusion of evidence and to procedures at
 72 trial.

73 ARTICLE 2

74 24-1-101.

75 Reserved.

76 24-1-102.

77 Reserved.

78 24-1-103.

79 (a) Error shall not be predicated upon a ruling which admits or excludes evidence unless
 80 a substantial right of the party is affected and:

81 (1) In case the ruling is one admitting evidence, a timely objection or motion to strike
 82 appears of record, stating the specific ground of objection, if the specific ground was not
 83 apparent from the context; or

84 (2) In case the ruling is one excluding evidence, the substance of the evidence was made
 85 known to the court by an offer of proof or was apparent from the context within which
 86 questions were asked.

87 Once the court makes a definitive ruling on the record admitting or excluding any evidence,
 88 either at or before trial, a party need not renew an objection or offer of proof to preserve
 89 such claim of error for appeal.

90 (b) The court shall accord the parties adequate opportunity to state grounds for objections
 91 and present offers of proof. The court may add any other or further statement which shows

92 the character of the evidence, the form in which it was offered, the objection made, and the
93 ruling thereon. The court may direct the making of an offer of proof in question and
94 answer form.

95 (c) Jury proceedings shall be conducted, to the extent practicable, so as to prevent
96 inadmissible evidence from being suggested to the jury by any means, including, but not
97 limited to, making statements or offers of proof or asking questions in the hearing of the
98 jury.

99 (d) Nothing in this Code section shall preclude a court from taking notice of plain errors
100 affecting substantial rights although such errors were not brought to the attention of the
101 court.

102 24-1-104.

103 (a) Preliminary questions concerning the qualification of a person to be a witness, the
104 existence of a privilege, or the admissibility of evidence shall be determined by the court,
105 subject to the provisions of subsection (b) of this Code section. In making its
106 determination, the court shall not be bound by the rules of evidence except those with
107 respect to privileges. Preliminary questions shall be resolved by a preponderance of the
108 evidence standard.

109 (b) When the relevancy of evidence depends upon the fulfillment of a condition of fact,
110 the court shall admit it upon, or subject to, the introduction of evidence sufficient to support
111 a finding of the fulfillment of the condition.

112 (c) Hearings on the admissibility of confessions shall in all cases be conducted out of the
113 hearing of the jury. Hearings on other preliminary matters shall be conducted out of the
114 hearing of the jury when the interests of justice require or when an accused is a witness and
115 requests a hearing outside the presence of the jury.

116 (d) The accused shall not, by testifying upon a preliminary matter, become subject to
117 cross-examination as to other issues in the proceeding.

118 (e) This Code section shall not limit the right of a party to introduce before the jury
119 evidence relevant to weight or credibility.

120 24-1-105.

121 When evidence which is admissible as to one party or for one purpose but which is not
122 admissible as to another party or for another purpose is admitted, the court, upon request,
123 shall restrict the evidence to its proper scope and instruct the jury accordingly.

124 24-1-106.

125 When a writing or recorded statement or part thereof is introduced by a party, an adverse
 126 party may require the introduction at that time of any other part or any other writing or
 127 recorded statement which, in fairness, should be considered contemporaneously with the
 128 writing or recorded statement.

129 CHAPTER 2

130 ARTICLE 1

131 24-2-201.

132 (a) This Code section governs only judicial notice of adjudicative facts.

133 (b) A judicially noticed fact shall be a fact which is not subject to reasonable dispute in
 134 that it is either:

135 (1) Generally known within the territorial jurisdiction of the court; or

136 (2) Capable of accurate and ready determination by resort to sources whose accuracy
 137 cannot reasonably be questioned.

138 (c) A court may take judicial notice, whether or not requested by a party.

139 (d) A court shall take judicial notice if requested by a party and provided with the
 140 necessary information.

141 (e) A party shall be entitled, upon timely request, to an opportunity to be heard as to the
 142 propriety of taking judicial notice and the tenor of the matter noticed. In the absence of
 143 prior notification, such request may be made after judicial notice has been taken.

144 (f) Judicial notice may be taken at any stage of the proceeding.

145 (g)(1) In a civil proceeding, the court shall instruct the jury to accept as conclusive any
 146 fact judicially noticed.

147 (2) In a criminal proceeding, the court shall instruct the jury that it may, but is not
 148 required to, accept as conclusive any fact judicially noticed.

149 ARTICLE 2

150 24-2-220.

151 The existence and territorial extent of states and their forms of government; all symbols of
 152 nationality; the laws of nations; all laws and resolutions of the General Assembly and the
 153 journals of each branch thereof as published by authority; the laws of the United States and
 154 of the several states thereof as published by authority; the uniform rules of the courts; the
 155 administrative rules and regulations filed with the Secretary of State pursuant to Code
 156 Section 50-13-6; the general customs of merchants; the admiralty and maritime courts of

157 the world and their seals; the political makeup and history of this state and the federal
158 government as well as the local divisions of this state; the seals of the several departments
159 of the government of the United States and of the several states of the union; and all similar
160 matters of legislative fact shall be judicially recognized without the introduction of proof.
161 Judicial notice of adjudicative facts shall be governed by Code Section 24-2-201.

162 24-2-221.

163 When certified by a public officer, clerk, or keeper of county or municipal records in this
164 state in a manner as specified for county records in Code Section 24-9-920 or in a manner
165 as specified for municipal records in paragraph (1) or (2) of Code Section 24-9-902 and in
166 the absence of contrary evidence, judicial notice may be taken of a certified copy of any
167 ordinance or resolution included within a general codification required by paragraph (1)
168 of subsection (b) of Code Section 36-80-19 as representing an ordinance or resolution duly
169 approved by the governing authority and currently in force as presented. Any such
170 certified copy shall be self-authenticating and shall be admissible as prima-facie proof of
171 any such ordinance or resolution before any court or administrative body.

172 CHAPTER 3

173 24-3-1.

174 Parol contemporaneous evidence shall be generally inadmissible to contradict or vary the
175 terms of a valid written instrument.

176 24-3-2.

177 If the writing does not purport to contain all the stipulations of the contract, parol evidence
178 shall be admissible to prove other portions thereof not inconsistent with the writing;
179 collateral undertakings between parties of the same part among themselves would not
180 properly be looked for in the writing.

181 24-3-3.

182 (a) All contemporaneous writings shall be admissible to explain each other.

183 (b) Parol evidence shall be admissible to explain all ambiguities, both latent and patent.

184 24-3-4.

185 The surrounding circumstances shall always be proper subjects of proof to aid in the
186 construction of contracts.

187 24-3-5.

188 Evidence of known and established usage shall be admissible to aid in the construction of
189 contracts as well as to annex incidents.

190 24-3-6.

191 Parol evidence shall be admissible to rebut an equity, to discharge an entire contract, to
192 prove a new and distinct subsequent agreement, to enlarge the time of performance, or to
193 change the place of performance.

194 24-3-7.

195 Parol evidence shall be admissible to prove a mistake in a deed or any other contract
196 required by law to be in writing.

197 24-3-8.

198 Parol evidence shall be admissible to show that a writing either was originally void or
199 subsequently became void.

200 24-3-9.

201 Receipts for money shall always be only prima-facie evidence of payment and may be
202 denied or explained by parol.

203 24-3-10.

204 Blank endorsements of negotiable paper may always be explained between the parties
205 themselves or those taking with notice of dishonor or of the actual facts of such
206 endorsements.

207 CHAPTER 4

208 24-4-401.

209 As used in this chapter, the term 'relevant evidence' means evidence having any tendency
210 to make the existence of any fact that is of consequence to the determination of the action
211 more probable or less probable than it would be without the evidence.

212 24-4-402.

213 All relevant evidence shall be admissible, except as limited by constitutional requirements
214 or as otherwise provided by law or by other rules, as prescribed pursuant to constitutional

215 or statutory authority, applicable in the court in which the matter is pending. Evidence
216 which is not relevant shall not be admissible.

217 24-4-403.

218 Relevant evidence may be excluded if its probative value is substantially outweighed by
219 the danger of unfair prejudice, confusion of the issues, or misleading the jury or by
220 considerations of undue delay, waste of time, or needless presentation of cumulative
221 evidence.

222 24-4-404.

223 (a) Evidence of a person's character or a trait of character shall not be admissible for the
224 purpose of proving action in conformity therewith on a particular occasion, except for:

225 (1) Evidence of a pertinent trait of character offered by an accused or by the prosecution
226 to rebut the same; or if evidence of a trait of character of the alleged victim of the crime
227 is offered by an accused and admitted under paragraph (2) of this subsection, evidence
228 of the same trait of character of the accused offered by the prosecution;

229 (2) Subject to the limitations imposed by Code Section 24-4-412, evidence of a pertinent
230 trait of character of the alleged victim of the crime offered by an accused or by the
231 prosecution to rebut the same; or evidence of a character trait of peacefulness of the
232 alleged victim offered by the prosecution in a homicide case to rebut evidence that the
233 alleged victim was the first aggressor; or

234 (3) Evidence of the character of a witness, as provided in Code Sections 24-6-607,
235 24-6-608, and 24-6-609.

236 (b) Evidence of other crimes, wrongs, or acts shall not be admissible to prove the character
237 of a person in order to show action in conformity therewith. It may, however, be
238 admissible for other purposes, including, but not limited to, proof of motive, opportunity,
239 intent, preparation, plan, knowledge, identity, or absence of mistake or accident. The
240 prosecution in a criminal proceeding shall provide reasonable notice to the defense in
241 advance of trial, unless pretrial notice is excused by the court upon good cause shown, of
242 the general nature of any such evidence it intends to introduce at trial. Notice shall not be
243 required when the evidence of prior crimes, wrongs, or acts is offered to prove the
244 circumstances immediately surrounding the charged crime, motive, or prior difficulties
245 between the accused and the alleged victim.

246 24-4-405.

247 (a) In all proceedings in which evidence of character or a trait of character of a person is
248 admissible, proof shall be made by testimony as to reputation or by testimony in the form
249 of an opinion.

250 (b) In proceedings in which character or a trait of character of a person is an essential
251 element of a charge, claim, or defense or when an accused testifies to his or her own
252 character, proof may also be made of specific instances of that person's conduct. The
253 character of the accused, including specific instances of the accused's conduct, shall also
254 be admissible in a presentencing hearing subject to the provisions of Code Section 17-10-2.

255 (c) On cross-examination, inquiry shall be allowable into relevant specific instances of
256 conduct.

257 24-4-406.

258 Evidence of the habit of a person or of the routine practice of an organization, whether
259 corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that
260 the conduct of the person or organization on a particular occasion was in conformity with
261 such habit or routine practice.

262 24-4-407.

263 In civil proceedings, when, after an injury or harm, remedial measures are taken to make
264 such injury or harm less likely to recur, evidence of the remedial measures shall not be
265 admissible to prove negligence or culpable conduct but may be admissible to prove product
266 liability under subsection (b) or (c) of Code Section 51-1-11. The provisions of this Code
267 section shall not require the exclusion of evidence of remedial measures when offered for
268 impeachment or for another purpose, including, but not limited to, proving ownership,
269 control, or feasibility of precautionary measures, if controverted.

270 24-4-408.

271 (a) Except as provided in Code Section 9-11-68, evidence of:

272 (1) Furnishing, offering, or promising to furnish; or

273 (2) Accepting, offering, or promising to accept

274 a valuable consideration in compromising or attempting to compromise a claim which was
275 disputed as to either validity or amount shall not be admissible to prove liability for or
276 invalidity of any claim or its amount.

277 (b) Evidence of conduct or statements made in compromise negotiations or mediation shall
278 not be admissible.

279 (c) This Code section shall not require the exclusion of any evidence otherwise
 280 discoverable merely because it is presented in the course of compromise negotiations or
 281 mediation. This Code section shall not require exclusion of evidence offered for another
 282 purpose, including, but not limited to, proving bias or prejudice of a witness, negating a
 283 contention of undue delay or abuse of process, or proving an effort to obstruct a criminal
 284 investigation or prosecution.

285 24-4-409.

286 Evidence of furnishing, offering, or promising to pay medical, hospital, or similar expenses
 287 occasioned by an injury shall not be admissible to prove liability for the injury.

288 24-4-410.

289 Except as otherwise provided by law, evidence of the following shall not, in any judicial
 290 or administrative proceeding, be admissible against the criminal defendant who made the
 291 plea or was a participant in the plea discussions:

292 (1) A plea of guilty which was later withdrawn;

293 (2) A plea of nolo contendere;

294 (3) Any statement made in the course of any proceedings in which a guilty plea or a plea
 295 of nolo contendere was entered and was later withdrawn, vacated, or set aside; or

296 (4) Any statement made in the course of plea discussions with an attorney for the
 297 prosecuting authority which does not result in a plea of guilty or which results in a plea
 298 of guilty later withdrawn, vacated, or set aside;

299 provided, however, that the statements described in paragraphs (1) through (4) of this Code
 300 section shall be admissible in any proceeding wherein another statement made in the course
 301 of the same plea or plea discussions has been introduced and the statement ought in fairness
 302 be considered contemporaneously with it or in a criminal proceeding for perjury or false
 303 statement if the statement was made by the accused under oath, on the record, and in the
 304 presence of counsel or after the accused voluntarily waived his or her right to counsel.

305 24-4-411.

306 In all civil proceedings involving a claim for damages, evidence that a person was or was
 307 not insured against liability shall not be admissible except as provided in this Code section.

308 This Code section shall not require the exclusion of evidence of insurance against liability
 309 in proceedings under Code Section 46-7-12 or when such evidence is offered for a relevant
 310 purpose, including, but not limited to, proof of agency, ownership, or control, and the court
 311 finds that the danger of unfair prejudice is substantially outweighed by the probative value
 312 of the evidence.

313 24-4-412.

314 (a) In any prosecution for rape in violation of Code Section 16-6-1; aggravated assault
315 with the intent to rape in violation of Code Section 16-5-21; aggravated sodomy or sodomy
316 in violation of Code Section 16-6-2; statutory rape in violation of Code Section 16-6-3;
317 aggravated child molestation or child molestation in violation of Code Section 16-6-4;
318 incest in violation of Code Section 16-6-22; sexual battery in violation of Code Section
319 16-6-22.1; or aggravated sexual battery in violation of Code Section 16-6-22.2, evidence
320 relating to the past sexual behavior of the complaining witness shall not be admissible,
321 either as direct evidence or on cross-examination of the complaining witness or other
322 witnesses, except as provided in this Code section. For the purposes of this Code section,
323 evidence of past sexual behavior includes, but is not limited to, evidence of the
324 complaining witness's marital history, mode of dress, general reputation for promiscuity,
325 nonchastity, or sexual mores contrary to the community standards.

326 (b) In any prosecution for rape in violation of Code Section 16-6-1; aggravated assault
327 with the intent to rape in violation of Code Section 16-5-21; aggravated sodomy or sodomy
328 in violation of Code Section 16-6-2; statutory rape in violation of Code Section 16-6-3;
329 aggravated child molestation or child molestation in violation of Code Section 16-6-4;
330 incest in violation of Code Section 16-6-22; sexual battery in violation of Code Section
331 16-6-22.1; or aggravated sexual battery in violation of Code Section 16-6-22.2, evidence
332 relating to the past sexual behavior of the complaining witness may be introduced if the
333 court, following the procedure described in subsection (c) of this Code section, finds that
334 the past sexual behavior directly involved the participation of the accused and finds that the
335 evidence expected to be introduced supports an inference that the accused could have
336 reasonably believed that the complaining witness consented to the conduct complained of
337 in the prosecution.

338 (c) The procedure for introducing evidence as described in subsection (b) of this Code
339 section shall be as follows:

340 (1) At the time the defense seeks to introduce evidence which would be covered by
341 subsection (b) of this Code section, the defense shall notify the court of such intent,
342 whereupon the court shall conduct an in camera hearing to examine the accused's offer
343 of proof;

344 (2) At the conclusion of the hearing, if the court finds that any of the evidence introduced
345 at the hearing is admissible under subsection (b) of this Code section or is so highly
346 material that it will substantially support a conclusion that the accused reasonably
347 believed that the complaining witness consented to the conduct complained of and that
348 justice mandates the admission of such evidence, the court shall by order state what

349 evidence may be introduced by the defense at the trial of the case and in what manner the
350 evidence may be introduced; and
351 (3) The defense may then introduce evidence pursuant to the order of the court.

352 24-4-413.

353 (a) In a criminal proceeding in which the accused is accused of an offense of sexual
354 assault, evidence of the accused's commission of another offense of sexual assault shall be
355 admissible and may be considered for its bearing on any matter to which it is relevant.

356 (b) In a proceeding in which the prosecution intends to offer evidence under this Code
357 section, the prosecutor shall disclose such evidence to the accused, including statements
358 of witnesses or a summary of the substance of any testimony that is expected to be offered,
359 at least ten days in advance of trial, unless the time is shortened or lengthened or pretrial
360 notice is excused by the judge upon good cause shown.

361 (c) This Code section shall not be the exclusive means to admit or consider evidence
362 described in this Code section.

363 (d) As used in this Code section, the term 'offense of sexual assault' means any conduct
364 or attempt or conspiracy to engage in:

365 (1) Conduct that would be a violation of Code Section 16-6-1, 16-6-2, 16-6-3, 16-6-5.1,
366 16-6-22, 16-6-22.1, or 16-6-22.2;

367 (2) Any crime that involves contact, without consent, between any part of the accused's
368 body or an object and the genitals or anus of another person;

369 (3) Any crime that involves contact, without consent, between the genitals or anus of the
370 accused and any part of another person's body; or

371 (4) Any crime that involves deriving sexual pleasure or gratification from the infliction
372 of death, bodily injury, or physical pain on another person.

373 24-4-414.

374 (a) In a criminal proceeding in which the accused is accused of an offense of child
375 molestation, evidence of the accused's commission of another offense of child molestation
376 shall be admissible and may be considered for its bearing on any matter to which it is
377 relevant.

378 (b) In a proceeding in which the state intends to offer evidence under this Code section,
379 the prosecuting attorney shall disclose the evidence to the accused, including statements
380 of witnesses or a summary of the substance of any testimony that the prosecuting attorney
381 expects to offer, at least ten days in advance of trial, unless the time is shortened or
382 lengthened or pretrial notice is excused by the judge upon good cause shown.

383 (c) This Code section shall not be the exclusive means to admit or consider evidence
 384 described under this Code section.

385 (d) As used in this Code section, the term 'offense of child molestation' means any conduct
 386 or attempt or conspiracy to engage in:

387 (1) Conduct that would be a violation of Code Section 16-6-4, 16-6-5, 16-12-100,
 388 16-12-100.2, or 16-12-100.3;

389 (2) Any crime that involves contact between any part of the accused's body or an object
 390 and the genitals or anus of a child;

391 (3) Any crime that involves contact between the genitals or anus of the accused and any
 392 part of the body of a child; or

393 (4) Any crime that involves deriving sexual pleasure or gratification from the infliction
 394 of death, bodily injury, or physical pain on a child.

395 24-4-415.

396 (a) In a civil or administrative proceeding in which a claim for damages or other relief is
 397 predicated on a party's alleged commission of conduct constituting an offense of sexual
 398 assault or an offense of child molestation, evidence of that party's commission of another
 399 offense of sexual assault or another offense of child molestation shall be admissible and
 400 may be considered as provided in Code Sections 24-4-413 and 24-4-414.

401 (b) A party who intends to offer evidence under this Code section shall disclose the
 402 evidence to the party against whom it will be offered, including statements of witnesses or
 403 a summary of the substance of any testimony that is expected to be offered, at least ten
 404 days in advance of trial, unless the time is shortened or lengthened or pretrial notice is
 405 excused by the judge upon good cause shown.

406 (c) This Code section shall not be the exclusive means to admit or consider evidence
 407 described in this Code section.

408 (d) As used in this Code section, the term:

409 (1) 'Offense of child molestation' means any conduct or attempt or conspiracy to engage
 410 in:

411 (A) Conduct that would be a violation of Code Section 16-6-4, 16-6-5, 16-12-100,
 412 16-12-100.2, or 16-12-100.3;

413 (B) Any crime that involves contact between any part of the accused's body or an
 414 object and the genitals or anus of a child;

415 (C) Any crime that involves contact between the genitals or anus of the accused and
 416 any part of the body of a child; or

417 (D) Any crime that involves deriving sexual pleasure or gratification from the infliction
 418 of death, bodily injury, or physical pain on a child.

419 (2) 'Offense of sexual assault' means any conduct or attempt or conspiracy to engage in:
 420 (A) Conduct that would be a violation of Code Section 16-6-1, 16-6-2, 16-6-3,
 421 16-6-5.1, 16-6-22, 16-6-22.1, or 16-6-22.2;
 422 (B) Any crime that involves contact, without consent, between any part of the
 423 accused's body or an object and the genitals or anus of another person;
 424 (C) Any crime that involves contact, without consent, between the genitals or anus of
 425 the accused and any part of another person's body; or
 426 (D) Any crime that involves deriving sexual pleasure or gratification from the infliction
 427 of death, bodily injury, or physical pain on another person.

428 24-4-416.

429 (a) As used in this Code section, the term 'health care provider' means any person licensed
 430 under Chapter 9, 10A, 11, 11A, 26, 28, 30, 33, 34, 35, 39, or 44 of Title 43 or any hospital,
 431 nursing home, home health agency, institution, or medical facility licensed or defined under
 432 Chapter 7 of Title 31. The term shall also include any corporation, professional
 433 corporation, partnership, limited liability company, limited liability partnership, authority,
 434 or other entity comprised of such health care providers.

435 (b) In any claim or civil proceeding brought by or on behalf of a patient allegedly
 436 experiencing an unanticipated outcome of medical care, any and all statements,
 437 affirmations, gestures, activities, or conduct expressing regret, apology, sympathy,
 438 commiseration, condolence, compassion, mistake, error, or a general sense of benevolence
 439 which is made by a health care provider or an employee or agent of a health care provider
 440 to the patient, a relative of the patient, or a representative of the patient and which relates
 441 to the unanticipated outcome shall be inadmissible as evidence and shall not constitute an
 442 admission of liability or an admission against interest.

443 24-4-417.

444 (a) In a criminal proceeding involving a prosecution for a violation of Code Section
 445 40-6-391, evidence of the commission of another violation of Code Section 40-6-391 on
 446 a different occasion by the same accused shall be admissible when:

447 (1) The accused refused in the current case to take the state administered test required
 448 by Code Section 40-5-55 and such evidence is relevant to prove knowledge, plan, or
 449 absence of mistake or accident;

450 (2) The accused refused in the current case to provide an adequate breath sample for the
 451 state administered test required by Code Section 40-5-55 and such evidence is relevant
 452 to prove knowledge, plan, or absence of mistake or accident; or

453 (3) The identity of the driver is in dispute in the current case and such evidence is
 454 relevant to prove identity.

455 (b) In a criminal proceeding in which the state intends to offer evidence under this Code
 456 section, the prosecuting attorney shall disclose such evidence to the accused, including
 457 statements of witnesses or a summary of the substance of any testimony that the
 458 prosecuting attorney expects to offer, at least ten days in advance of trial, unless the time
 459 is shortened or pretrial notice is excused by the judge upon good cause shown.

460 (c) This Code section shall not be the exclusive means to admit or consider evidence
 461 described in this Code section.

462 CHAPTER 5

463 24-5-501.

464 (a) There are certain admissions and communications excluded from evidence on grounds
 465 of public policy, including, but not limited to, the following:

466 (1) Communications between husband and wife;

467 (2) Communications between attorney and client;

468 (3) Communications among grand jurors;

469 (4) Secrets of state;

470 (5) Communications between psychiatrist and patient;

471 (6) Communications between licensed psychologist and patient as provided in Code
 472 Section 43-39-16;

473 (7) Communications between a licensed clinical social worker, clinical nurse specialist
 474 in psychiatric/mental health, licensed marriage and family therapist, or licensed
 475 professional counselor and patient;

476 (8) Communications between or among any psychiatrist, psychologist, licensed clinical
 477 social worker, clinical nurse specialist in psychiatric/mental health, licensed marriage and
 478 family therapist, and licensed professional counselor who are rendering psychotherapy
 479 or have rendered psychotherapy to a patient, regarding that patient's communications
 480 which are otherwise privileged by paragraph (5), (6), or (7) of this Code section; and

481 (9) Communications between accountant and client as provided by Code Section
 482 43-3-32.

483 (b) As used in this Code section, the term:

484 (1) 'Psychotherapy' means the employment of psychotherapeutic techniques.

485 (2) 'Psychotherapeutic techniques' shall have the same meaning as provided in Code
 486 Section 43-10A-3.

487 24-5-502.

488 Every communication made by any person professing religious faith, seeking spiritual
489 comfort, or seeking counseling to any Protestant minister of the Gospel, any priest of the
490 Roman Catholic faith, any priest of the Greek Orthodox Catholic faith, any Jewish rabbi,
491 or any Christian or Jewish minister or similar functionary, by whatever name called, shall
492 be deemed privileged. No such minister, priest, rabbi, or similar functionary shall disclose
493 any communications made to him or her by any such person professing religious faith,
494 seeking spiritual guidance, or seeking counseling, nor shall such minister, priest, rabbi, or
495 similar functionary be competent or compellable to testify with reference to any such
496 communication in any court.

497 24-5-503.

498 (a) A husband and wife shall be competent but shall not be compellable to give evidence
499 in any criminal proceeding for or against each other.

500 (b) The privilege created by subsection (a) of this Code section or by corresponding
501 privileges in paragraph (1) of Code Section 24-5-501 or subsection (a) of Code Section
502 24-5-505 shall not apply in proceedings in which the husband or wife is charged with a
503 crime against the person of a child under the age of 18, but such husband or wife shall be
504 compellable to give evidence only on the specific act for which the accused is charged.

505 24-5-504.

506 Any law enforcement officer testifying in his or her official capacity in any criminal
507 proceeding shall not be compelled to reveal his or her home address. Such officer may be
508 required to divulge the business address of his or her employer, and the court may require
509 any law enforcement officer to answer questions as to his or her home address whenever
510 such fact may be material to any issue in the proceeding.

511 24-5-505.

512 (a) No party or witness shall be required to testify as to any matter which may incriminate
513 or tend to incriminate such party or witness or which shall tend to bring infamy, disgrace,
514 or public contempt upon such party or witness or any member of such party or witness's
515 family.

516 (b) Except in proceedings in which a judgment creditor or judgment creditor's successor
517 in interest seeks postjudgment discovery involving a judgment debtor pursuant to Code
518 Section 9-11-69, no party or witness shall be required to testify as to any matter which shall
519 tend to work a forfeiture of his or her estate.

520 (c) No official persons shall be called on to disclose any state matters of which the policy
521 of the state and the interest of the community require concealment.

522 24-5-506.

523 (a) No person who is charged in any criminal proceeding with the commission of any
524 criminal offense shall be compellable to give evidence for or against himself or herself.

525 (b) If an accused in a criminal proceeding wishes to testify and announces in open court
526 his or her intention to do so, the accused may so testify. If an accused testifies, he or she
527 shall be sworn as any other witness and, except as provided in Code Sections 24-6-608 and
528 24-6-609, may be examined and cross-examined as any other witness. The failure of an
529 accused to testify shall create no presumption against the accused, and no comment shall
530 be made because of such failure.

531 24-5-507.

532 (a) Whenever in the judgment of the Attorney General or any district attorney the
533 testimony of any person or the production of evidence of any kind by any person in any
534 criminal proceeding before a court or grand jury is necessary to the public interest, the
535 Attorney General or the district attorney may request in writing the superior court to order
536 such person to testify or produce the evidence. Upon order of the court, such person shall
537 not be excused on the basis of the privilege against self-incrimination from testifying or
538 producing any evidence required, but no testimony or other evidence required under the
539 order or any information directly or indirectly derived from such testimony or evidence
540 shall be used against the person in any proceeding or prosecution for a crime or offense
541 concerning which he or she testified or produced evidence under court order. However,
542 such person may nevertheless be prosecuted or subjected to penalty or forfeiture for any
543 perjury, false swearing, or contempt committed in testifying or failing to testify or in
544 producing or failing to produce evidence in accordance with the order but shall not be
545 required to produce evidence that can be used in any other court of this state, the United
546 States, or any other state. Any order entered under this Code section shall be entered of
547 record in the minutes of the court so as to afford a permanent record thereof, and any
548 testimony given by a person pursuant to such order shall be transcribed and filed for
549 permanent record in the office of the clerk of the court.

550 (b) If a person refuses to testify after being granted immunity from prosecution and after
551 being ordered to testify as set forth in this Code section, such person may be adjudged in
552 contempt and committed to the county jail until such time as such person purges himself
553 or herself of contempt by testifying as ordered without regard to the expiration of the grand

554 jury. If the grand jury before which such person was ordered to testify has been dissolved,
 555 such person may purge himself or herself by testifying before the court.

556 24-5-508.

557 Any person, company, or other entity engaged in the gathering and dissemination of news
 558 for the public through any newspaper, book, magazine, radio or television broadcast, or
 559 electronic means shall have a qualified privilege against disclosure of any information,
 560 document, or item obtained or prepared in the gathering or dissemination of news in any
 561 proceeding where the one asserting the privilege is not a party, unless it is shown that this
 562 privilege has been waived or that what is sought:

563 (1) Is material and relevant;

564 (2) Cannot be reasonably obtained by alternative means; and

565 (3) Is necessary to the proper preparation or presentation of the case of a party seeking
 566 the information, document, or item.

567 CHAPTER 6

568 ARTICLE 1

569 24-6-601.

570 Except as otherwise provided in this chapter, every person is competent to be a witness.

571 24-6-602.

572 A witness may not testify to a matter unless evidence is introduced sufficient to support a
 573 finding that the witness has personal knowledge of such matter. Evidence to prove
 574 personal knowledge may, but need not, consist of the witness's own testimony. The
 575 provisions of this Code section are subject to Code Section 24-7-703 and shall not apply
 576 to party admissions.

577 24-6-603.

578 (a) Before testifying, every witness shall be required to declare that he or she will testify
 579 truthfully by oath or affirmation administered in a form calculated to awaken the witness's
 580 conscience and impress the witness's mind with the duty to do so.

581 (b) Notwithstanding the provisions of subsection (a) of this Code section, in all
 582 proceedings involving deprivation as defined by Code Section 15-11-2 and in all criminal
 583 proceedings in which a child was a victim of or witness to any crime, the child shall be
 584 competent to testify, and the child's credibility shall be determined as provided in this
 585 chapter.

586 24-6-604.

587 Except as provided in Code Sections 24-6-656 and 24-6-657 or by the rules promulgated
588 by the Supreme Court of Georgia pursuant to Code Section 15-1-14, an interpreter shall be
589 subject to the provisions of Code Section 24-7-702. Interpreters shall be required to take
590 an oath or affirmation to make a true translation.

591 24-6-605.

592 The judge presiding at the trial shall not testify in that trial as a witness. No objection need
593 be made in order to preserve this issue.

594 24-6-606.

595 (a) A member of the jury shall not testify as a witness before that jury in the trial of the
596 case in which the juror is sitting. If a juror is called to testify, the opposing party shall be
597 afforded an opportunity to object out of the presence of the jury.

598 (b) Upon an inquiry into the validity of a verdict or indictment, a juror shall not testify by
599 affidavit or otherwise nor shall a juror's statements be received in evidence as to any matter
600 or statement occurring during the course of the jury's deliberations or to the effect of
601 anything upon the jury deliberations or any other juror's mind or emotions as influencing
602 the juror to assent to or dissent from the verdict or indictment or concerning the juror's
603 mental processes in connection therewith; provided, however, that a juror may testify on
604 the question of whether extraneous prejudicial information was improperly brought to the
605 juror's attention, whether any outside influence was improperly brought to bear upon any
606 juror, or whether there was a mistake in entering the verdict onto the verdict form.

607 24-6-607.

608 The credibility of a witness may be attacked by any party, including the party calling the
609 witness.

610 24-6-608.

611 (a) The credibility of a witness may be attacked or supported by evidence in the form of
612 opinion or reputation, subject to the following limitations:

613 (1) The evidence may refer only to character for truthfulness or untruthfulness; and

614 (2) Evidence of truthful character shall be admissible only after the character of the
615 witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

616 (b) Specific instances of the conduct of a witness, for the purpose of attacking or
617 supporting the witness's character for truthfulness, other than a conviction of a crime as
618 provided in Code Section 24-6-609, or conduct indicative of the witness's bias toward a

619 party may not be proved by extrinsic evidence. Such instances may however, in the
 620 discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on
 621 cross-examination of the witness:

622 (1) Concerning the witness's character for truthfulness or untruthfulness; or

623 (2) Concerning the character for truthfulness or untruthfulness of another witness as to
 624 which character the witness being cross-examined has testified.

625 (c) The giving of testimony, whether by an accused or by any other witness, shall not
 626 operate as a waiver of the accused's or the witness's privilege against self-incrimination
 627 when examined with respect to matters which relate only to character for truthfulness.

628 24-6-609.

629 (a) General rule. For the purpose of attacking the character for truthfulness of a witness:

630 (1) Evidence that a witness other than an accused has been convicted of a crime shall be
 631 admitted subject to the provisions of Code Section 24-4-403 if the crime was punishable
 632 by death or imprisonment of one year or more under the law under which the witness was
 633 convicted and evidence that an accused has been convicted of such a crime shall be
 634 admitted if the court determines that the probative value of admitting the evidence
 635 outweighs its prejudicial effect to the accused; or

636 (2) Evidence that any witness has been convicted of a crime shall be admitted regardless
 637 of the punishment, if it readily can be determined that establishing the elements of such
 638 crime required proof or admission of an act of dishonesty or making a false statement.

639 (b) Time limit. Evidence of a conviction under this Code section shall not be admissible
 640 if a period of more than ten years has elapsed since the date of the conviction or of the
 641 release of the witness from the confinement imposed for such conviction, whichever is the
 642 later date, unless the court determines, in the interests of justice, that the probative value
 643 of the conviction supported by specific facts and circumstances substantially outweighs its
 644 prejudicial effect. However, evidence of a conviction more than ten years old, as
 645 calculated in this subsection, shall not be admissible unless the proponent gives to the
 646 adverse party sufficient advance written notice of intent to use such evidence to provide the
 647 adverse party with a fair opportunity to contest the use of such evidence.

648 (c) Effect of pardon, annulment, certificate of rehabilitation, or discharge from a first
 649 offender program. Evidence of a final adjudication of guilt and subsequent discharge
 650 under any first offender statute shall not be used to impeach any witness and evidence of
 651 a conviction shall not be admissible under this Code section if:

652 (1) The conviction has been the subject of a pardon, annulment, certificate of
 653 rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the

654 person convicted, and that person has not been convicted of a subsequent crime which
655 was punishable by death or imprisonment in excess of one year; or

656 (2) The conviction has been the subject of a pardon, annulment, or other equivalent
657 procedure based on a finding of innocence.

658 (d) *Nolo contendere* pleas and juvenile adjudications. A conviction based on a plea of
659 nolo contendere shall not be admissible to impeach any witness under this Code section.
660 Evidence of juvenile adjudications shall not generally be admissible under this Code
661 section. The court may, however, in a criminal proceeding allow evidence of a juvenile
662 adjudication of a witness other than the accused if conviction of the offense would be
663 admissible to attack the credibility of an adult and the court is satisfied that admission in
664 evidence is necessary for a fair determination of the issue of guilt or innocence of the
665 accused.

666 (e) *Pendency of appeal*. The pendency of an appeal shall not render evidence of a
667 conviction inadmissible. Evidence of the pendency of an appeal shall be admissible.

668 24-6-610.

669 Evidence of the beliefs or opinions of a witness on matters of religion shall not be
670 admissible for the purpose of proving that by reason of the nature of the beliefs or opinions
671 the witness's credibility is impaired or enhanced.

672 24-6-611.

673 (a) The court shall exercise reasonable control over the mode and order of interrogating
674 witnesses and presenting evidence so as to:

675 (1) Make the interrogation and presentation effective for the ascertainment of the truth;

676 (2) Avoid needless consumption of time; and

677 (3) Protect witnesses from harassment or undue embarrassment.

678 (b) A witness may be cross-examined on any matter relevant to any issue in the
679 proceeding. The right of a thorough and sifting cross-examination shall belong to every
680 party as to the witnesses called against the party. If several parties to the same proceeding
681 have distinct interests, each party may exercise the right to cross-examination.

682 (c) Leading questions shall not be used on the direct examination of a witness except as
683 may be necessary to develop the witness's testimony. Ordinarily leading questions shall
684 be permitted on cross-examination. When a party calls a hostile witness, an adverse party,
685 or a witness identified with an adverse party, interrogation may be by leading questions.

686 24-6-612.

687 (a) If a witness uses a writing to refresh his or her memory while testifying, an adverse
688 party shall be entitled to have the writing produced at the hearing or trial, to inspect it, to
689 cross-examine the witness on such writing, and to introduce in evidence those portions of
690 such writing which relate to the testimony of the witness.

691 (b) If a witness uses a writing to refresh his or her memory before testifying at trial and the
692 court in its discretion determines it is necessary in the interests of justice, an adverse party
693 shall be entitled to have the writing produced at the trial, to inspect it, to cross-examine the
694 witness on such writing, and to introduce in evidence those portions of such writing which
695 relate to the testimony of the witness. If the writing used is protected by the attorney-client
696 privilege or as attorney work product under Code Section 9-11-26, use of the writing to
697 refresh recollection prior to the trial shall not constitute a waiver of that privilege or
698 protection. If it is claimed that the writing contains matters not related to the subject matter
699 of the testimony, the court shall examine the writing in camera, excise any portions of such
700 writing not so related, and order delivery of the remainder of such writing to the party
701 entitled to such writing. Any portion withheld over objections shall be preserved and made
702 available to the appellate court in the event of an appeal. If a writing is not produced or
703 delivered pursuant to an order under this Code section, the court shall make any order
704 justice requires; provided, however, that in criminal proceedings, when the prosecution
705 elects not to comply, the order shall be one striking the testimony or, if the court in its
706 discretion determines that the interests of justice so require, declaring a mistrial.

707 24-6-613.

708 (a) In examining a witness concerning a prior statement made by the witness, whether
709 written or not, the statement need not be shown nor its contents disclosed to the witness at
710 that time; provided, however, upon request the same shall be shown or disclosed to
711 opposing counsel.

712 (b) Except as provided in Code Section 24-8-806, extrinsic evidence of a prior inconsistent
713 statement by a witness shall not be admissible unless the witness is first afforded an
714 opportunity to explain or deny the prior inconsistent statement and the opposite party is
715 afforded an opportunity to interrogate the witness on the prior inconsistent statement or the
716 interests of justice otherwise require. This subsection shall not apply to admissions of a
717 party-opponent as set forth in paragraph (2) of subsection (d) of Code Section 24-8-801.

718 (c) A prior consistent statement shall be admissible to rehabilitate a witness if the prior
719 consistent statement logically rebuts an attack made on the witness's credibility. A general
720 attack on a witness's credibility with evidence offered under Code Section 24-6-608 or
721 24-6-609 shall not permit rehabilitation under this subsection. If a prior consistent

722 statement is offered to rebut an express or implied charge against the witness of recent
 723 fabrication or improper influence or motive, the prior consistent statement shall have been
 724 made before the alleged recent fabrication or improper influence or motive arose.

725 24-6-614.

726 (a) The court may, on its own motion, call a court appointed expert, call a witness
 727 regarding the competency of any party, or call a child witness or, at the suggestion of a
 728 party, call such witnesses, and all parties shall be entitled to cross-examine such witnesses.

729 In all other situations, the court may only call witnesses when there is an agreement of all
 730 of the parties for the court to call such witnesses and all parties shall be entitled to
 731 cross-examine such witnesses.

732 (b) The court may interrogate witnesses whether called by itself pursuant to subsection (a)
 733 of this Code section or by a party.

734 (c) Objections to the calling of witnesses by the court or to interrogation by the court may
 735 be made at the time or at the next available opportunity when the jury is not present.

736 24-6-615.

737 Except as otherwise provided in Code Section 24-6-616, at the request of a party the court
 738 shall order witnesses excluded so that each witness cannot hear the testimony of other
 739 witnesses, and it may make the order on its own motion. This Code section shall not
 740 authorize exclusion of:

741 (1) A party who is a natural person;

742 (2) An officer or employee of a party which is not a natural person designated as its
 743 representative by its attorney; or

744 (3) A person whose presence is shown by a party to be essential to the presentation of
 745 the party's cause.

746 24-6-616.

747 (a) The victim of a criminal offense may be entitled to be present in any court exercising
 748 jurisdiction over such offense. It shall be within the sole discretion of the judge to
 749 implement the provisions of this Code section and determine when to allow such victim to
 750 be present in such court and, if such victim is permitted to be present, to determine the
 751 order in which the testimony of such victim shall be given.

752 (b) The failure of a victim to exercise any right granted by this Code section shall not be
 753 a cause or ground for an appeal of a conviction by an accused or for any court to set aside,
 754 reverse, or remand a criminal conviction.

755 ARTICLE 2756 24-6-620.

757 The credibility of a witness shall be a matter to be determined by the trier of fact, and if the
 758 case is being heard by a jury, the court shall give the jury proper instructions as to the
 759 credibility of a witness.

760 24-6-621.761 A witness may be impeached by disproving the facts testified to by the witness.762 24-6-622.

763 The state of a witness's feelings towards the parties and the witness's relationship to the
 764 parties may always be proved for the consideration of the jury.

765 24-6-623.

766 It shall be the right of a witness to be examined only as to relevant matters and to be
 767 protected from improper questions and from harsh or insulting demeanor.

768 ARTICLE 3769 24-6-650.

770 It is the policy of the State of Georgia to secure the rights of hearing impaired persons who,
 771 because of impaired hearing, cannot readily understand or communicate in spoken
 772 language and who consequently cannot equally participate in or benefit from proceedings,
 773 programs, and activities of the courts, legislative bodies, administrative agencies, licensing
 774 commissions, departments, and boards of this state and its political subdivisions unless
 775 qualified interpreters are available to assist such persons.

776 24-6-651.777 As used in this article, the term:

778 (1) 'Agency' means any agency, authority, board, bureau, committee, commission, court,
 779 department, or jury of the legislative, judicial, or executive branch of government of this
 780 state or any political subdivision thereof.

781 (2) 'Court qualified interpreter' means any person licensed as an interpreter for the
 782 hearing impaired pursuant to Code Section 15-1-14.

783 (3) 'Hearing impaired person' means any person whose hearing is totally impaired or
 784 whose hearing is so seriously impaired as to prohibit the person from understanding oral
 785 communications when spoken in a normal conversational tone.

786 (4) 'Intermediary interpreter' means any person, including any hearing impaired person,
 787 who is able to assist in providing an accurate interpretation between spoken English and
 788 sign language or between the variance of sign language by acting as an intermediary
 789 between a hearing impaired person and a qualified interpreter.

790 (5) 'Proceeding' means any meeting, hearing, trial, investigation, or other proceeding of
 791 any nature conducted by an agency.

792 (6) 'Qualified interpreter' means any person certified as an interpreter for hearing
 793 impaired persons by the Registry of Interpreters for the Deaf or a court qualified
 794 interpreter.

795 24-6-652.

796 (a) The agency conducting any proceeding shall provide a qualified interpreter to the
 797 hearing impaired person:

798 (1) Whenever the hearing impaired person is a party to the proceeding or a witness
 799 before the proceeding; or

800 (2) Whenever a person who is below the age of 18 years is a party to the proceeding or
 801 a witness before the proceeding conducted by an agency whose parents are hearing
 802 impaired persons or whose guardian is a hearing impaired person.

803 (b) A hearing impaired person shall notify the agency not less than ten days, excluding
 804 weekends and holidays, prior to the date of the proceeding of the need for a qualified
 805 interpreter. If the hearing impaired person received notice of the proceeding less than ten
 806 days, excluding weekends and holidays, prior to the proceeding, such person shall notify
 807 the agency as soon as practicable after receiving such notice.

808 24-6-653.

809 (a) An arresting law enforcement agency shall provide a qualified interpreter to any
 810 hearing impaired person whenever a hearing impaired person is arrested for allegedly
 811 violating any criminal law or ordinance of this state or any political subdivision thereof.

812 (b)(1) Except as provided in paragraph (2) of this subsection, no interrogation, warning,
 813 informing of rights, taking of statements, or other investigatory procedures shall be
 814 undertaken upon a hearing impaired person unless a qualified interpreter has been
 815 provided or the law enforcement agency has taken such other steps as may be reasonable
 816 to accommodate such person's disability. No answer, statement, admission, or other
 817 evidence acquired through the interrogation of a hearing impaired person shall be

818 admissible in any criminal or quasi-criminal proceedings unless such was knowingly and
819 voluntarily given. No hearing impaired person who has been taken into custody and who
820 is otherwise eligible for release shall be detained because of the unavailability of a
821 qualified interpreter.

822 (2) If a qualified interpreter is not available, an arresting officer may interrogate or take
823 a statement from such person, provided that if the hearing impaired person cannot hear
824 spoken words with a hearing aid or other sound amplification device, such interrogation
825 and answers thereto shall be in writing and shall be preserved and turned over to the court
826 in the event such person is tried for the alleged offense.

827 24-6-654.

828 (a) A court shall provide a court qualified interpreter to any hearing impaired person
829 whenever the hearing impaired person has been provided with a public defender or court
830 appointed legal counsel.

831 (b) The court qualified interpreter authorized by this Code section shall be present at all
832 times when the hearing impaired person is consulting with legal counsel.

833 24-6-655.

834 Whenever a hearing impaired person shall be authorized to be provided a qualified
835 interpreter, such person may waive the right to the use of such interpreter. Any such
836 waiver shall be in writing and shall be approved by the agency or law enforcement agency
837 before which the hearing impaired person is to appear. In no event shall the failure of a
838 hearing impaired person to request an interpreter be deemed to be a waiver of the hearing
839 impaired person's right to a qualified interpreter.

840 24-6-656.

841 Whenever a hearing impaired person shall be authorized to be provided a qualified
842 interpreter, the agency or law enforcement agency shall determine whether the qualified
843 interpreter so provided is able to communicate accurately with and translate information
844 to and from the hearing impaired person. If it is determined that the qualified interpreter
845 cannot perform these functions, the agency or law enforcement agency shall obtain the
846 services of another qualified interpreter or shall appoint an intermediary interpreter to assist
847 the qualified interpreter in communicating with the hearing impaired person.

848 24-6-657.

849 (a) Prior to providing any service to a hearing impaired person, any qualified interpreter
850 or intermediary interpreter shall subscribe to an oath that he or she will interpret all

851 communications in an accurate manner to the best of his or her skill and knowledge. The
 852 Supreme Court of Georgia may by rule of court prescribe the form of the oath for
 853 interpreters and intermediary interpreters for use in court and other judicial proceedings.

854 (b) Whenever a hearing impaired person communicates with any other person through the
 855 use of an interpreter and under circumstances which make such communications privileged
 856 or otherwise confidential, the presence of the interpreter shall not vitiate such privilege and
 857 the interpreter shall not be required to disclose the contents of such communication.

858 (c) Whenever a qualified interpreter is required by this article, the agency or law
 859 enforcement agency shall not begin the proceeding or take any action until such interpreter
 860 is in full view of and spatially situated so as to assure effective communication with the
 861 hearing impaired person.

862 (d) The agency or law enforcement agency may, upon its own motion or upon motion of
 863 any party, witness, or participant, order that the testimony of the hearing impaired person
 864 be electronically and visually recorded. Any such recording may be used to verify the
 865 testimony given by the hearing impaired person.

866 24-6-658.

867 Any qualified interpreter or intermediary interpreter providing service under this article
 868 shall be compensated by the agency or law enforcement agency requesting such service.

869 CHAPTER 7

870 24-7-701.

871 (a) If the witness is not testifying as an expert, the witness's testimony in the form of
 872 opinions or inferences shall be limited to those opinions or inferences which are:

873 (1) Rationally based on the perception of the witness;

874 (2) Helpful to a clear understanding of the witness's testimony or the determination of
 875 a fact in issue; and

876 (3) Not based on scientific, technical, or other specialized knowledge within the scope
 877 of Code Section 24-7-702.

878 (b) Direct testimony as to market value is in the nature of opinion evidence. A witness
 879 need not be an expert or dealer in an article or property to testify as to its value if he or she
 880 has had an opportunity to form a reasoned opinion.

881 24-7-702.

882 (a) Except as provided in Code Section 22-1-14 and in subsection (g) of this Code section,
 883 the provisions of this Code section shall apply in all civil proceedings. The opinion of a

884 witness qualified as an expert under this Code section may be given on the facts as proved
885 by other witnesses.

886 (b) If scientific, technical, or other specialized knowledge will assist the trier of fact to
887 understand the evidence or to determine a fact in issue, a witness qualified as an expert by
888 knowledge, skill, experience, training, or education may testify thereto in the form of an
889 opinion or otherwise, if:

890 (1) The testimony is based upon sufficient facts or data;

891 (2) The testimony is the product of reliable principles and methods; and

892 (3) The witness has applied the principles and methods reliably to the facts of the case
893 which have been or will be admitted into evidence before the trier of fact.

894 (c) Notwithstanding the provisions of subsection (b) of this Code section and any other
895 provision of law which might be construed to the contrary, in professional malpractice
896 actions, the opinions of an expert, who is otherwise qualified as to the acceptable standard
897 of conduct of the professional whose conduct is at issue, shall be admissible only if, at the
898 time the act or omission is alleged to have occurred, such expert:

899 (1) Was licensed by an appropriate regulatory agency to practice his or her profession
900 in the state in which such expert was practicing or teaching in the profession at such time;
901 and

902 (2) In the case of a medical malpractice action, had actual professional knowledge and
903 experience in the area of practice or specialty in which the opinion is to be given as the
904 result of having been regularly engaged in:

905 (A) The active practice of such area of specialty of his or her profession for at least
906 three of the last five years, with sufficient frequency to establish an appropriate level
907 of knowledge, as determined by the judge, in performing the procedure, diagnosing the
908 condition, or rendering the treatment which is alleged to have been performed or
909 rendered negligently by the defendant whose conduct is at issue; or

910 (B) The teaching of his or her profession for at least three of the last five years as an
911 employed member of the faculty of an educational institution accredited in the teaching
912 of such profession, with sufficient frequency to establish an appropriate level of
913 knowledge, as determined by the judge, in teaching others how to perform the
914 procedure, diagnose the condition, or render the treatment which is alleged to have been
915 performed or rendered negligently by the defendant whose conduct is at issue; and

916 (C) Except as provided in subparagraph (D) of this paragraph:

917 (i) Is a member of the same profession;

918 (ii) Is a medical doctor testifying as to the standard of care of a defendant who is a
919 doctor of osteopathy; or

920 (iii) Is a doctor of osteopathy testifying as to the standard of care of a defendant who
921 is a medical doctor; and

922 (D) Notwithstanding any other provision of this Code section, an expert who is a
923 physician and, as a result of having, during at least three of the last five years
924 immediately preceding the time the act or omission is alleged to have occurred,
925 supervised, taught, or instructed nurses, nurse practitioners, certified registered nurse
926 anesthetists, nurse midwives, physician assistants, physical therapists, occupational
927 therapists, or medical support staff, has knowledge of the standard of care of that health
928 care provider under the circumstances at issue shall be competent to testify as to the
929 standard of that health care provider. However, a nurse, nurse practitioner, certified
930 registered nurse anesthetist, nurse midwife, physician assistant, physical therapist,
931 occupational therapist, or medical support staff shall not be competent to testify as to
932 the standard of care of a physician.

933 (d) Upon motion of a party, the court may hold a pretrial hearing to determine whether the
934 witness qualifies as an expert and whether the expert's testimony satisfies the requirements
935 of subsections (a) and (b) of this Code section. Such hearing and ruling shall be completed
936 no later than the final pretrial conference contemplated under Code Section 9-11-16.

937 (e) An affiant shall meet the requirements of this Code section in order to be deemed
938 qualified to testify as an expert by means of the affidavit required under Code Section
939 9-11-9.1.

940 (f) It is the intent of the legislature that, in all civil proceedings, the courts of the State of
941 Georgia not be viewed as open to expert evidence that would not be admissible in other
942 states. Therefore, in interpreting and applying this Code section, the courts of this state
943 may draw from the opinions of the United States Supreme Court in Daubert v. Merrell
944 Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993); General Electric Co. v. Joiner, 522 U.S.
945 136 (1997); Kumho Tire Co. Ltd. v. Carmichael, 526 U.S. 137 (1999); and other cases in
946 federal courts applying the standards announced by the United States Supreme Court in
947 these cases.

948 (g) This Code section shall not be strictly applied in proceedings conducted pursuant to
949 Chapter 9 of Title 34 or in administrative proceedings conducted pursuant to Chapter 13
950 of Title 50.

951 24-7-703.

952 The facts or data in the particular proceeding upon which an expert bases an opinion or
953 inference may be those perceived by or made known to the expert at or before the hearing.
954 If of a type reasonably relied upon by experts in the particular field in forming opinions or
955 inferences upon the subject, such facts or data need not be admissible in evidence in order

956 for the opinion or inference to be admitted. Such facts or data that are otherwise
 957 inadmissible shall not be disclosed to the jury by the proponent of the opinion or inference
 958 unless the court determines that their probative value in assisting the jury to evaluate the
 959 expert's opinion substantially outweighs their prejudicial effect.

960 24-7-704.

961 (a) Except as provided in subsection (b) of this Code section, testimony in the form of an
 962 opinion or inference otherwise admissible shall not be objectionable because it embraces
 963 an ultimate issue to be decided by the trier of fact.

964 (b) No expert witness testifying with respect to the mental state or condition of an accused
 965 in a criminal proceeding shall state an opinion or inference as to whether the accused did
 966 or did not have the mental state or condition constituting an element of the crime charged
 967 or of a defense thereto. Such ultimate issues are matters for the trier of fact alone.

968 24-7-705.

969 An expert may testify in terms of opinion or inference and give reasons therefor without
 970 first testifying to the underlying facts or data, unless the court requires otherwise. An
 971 expert may in any event be required to disclose the underlying facts or data on
 972 cross-examination.

973 24-7-706.

974 Except as provided in Chapter 7 of Title 9 or Code Section 17-7-130.1, 17-10-66, 29-4-11,
 975 29-5-11, 31-14-3, 31-20-3, or 44-6-166.1, the following procedures shall govern the
 976 appointment, compensation, and presentation of testimony of court appointed experts:

977 (1) The court on its own motion or on the motion of any party may enter an order to
 978 show cause why any expert witness should not be appointed and may request the parties
 979 to submit nominations. The court may appoint any expert witnesses agreed upon by the
 980 parties and may appoint expert witnesses of its own selection. An expert witness shall
 981 not be appointed by the court unless the witness consents to act. Each appointed expert
 982 witness shall be informed of his or her duties by the court in writing, a copy of which
 983 shall be filed with the clerk, or at a conference in which the parties shall have opportunity
 984 to participate. Each appointed expert witness shall advise the parties of his or her
 985 findings, if any. Except as provided in Article 3 of Chapter 12 or Article 6 of Chapter 13
 986 of this title, such witness's deposition may be taken by any party. Such witness may be
 987 called to testify by the court or any party. Each expert witness shall be subject to
 988 cross-examination by each party, including a party calling the witness;

989 (2) Appointed expert witnesses shall be entitled to reasonable compensation in whatever
 990 sum the court allows. The compensation fixed shall be payable from funds which may
 991 be provided by law in criminal proceedings and civil proceedings and proceedings
 992 involving just compensation for the taking of property. In other civil proceedings, the
 993 compensation shall be paid by the parties in such proportion and at such time as the court
 994 directs and thereafter charged in like manner as other costs;

995 (3) In the exercise of its discretion, the court may authorize disclosure to the jury of the
 996 fact that the court appointed the expert witness; and

997 (4) Nothing in this Code section shall limit a party in calling expert witnesses of the
 998 party's own selection.

999 24-7-707.

1000 In criminal proceedings, the opinions of experts on any question of science, skill, trade, or
 1001 like questions shall always be admissible; and such opinions may be given on the facts as
 1002 proved by other witnesses.

1003 CHAPTER 8

1004 ARTICLE 1

1005 24-8-801.

1006 As used in this chapter, the term:

1007 (a) 'Statement' means:

1008 (1) An oral or written assertion; or

1009 (2) Nonverbal conduct of a person, if it is intended by the person as an assertion.

1010 (b) 'Declarant' means a person who makes a statement.

1011 (c) 'Hearsay' means a statement, other than one made by the declarant while testifying at
 1012 the trial or hearing, offered in evidence to prove the truth of the matter asserted.

1013 (d) 'Hearsay' shall be subject to the following exclusions and conditions:

1014 (1) *Prior statement by witness.*

1015 (A) An out-of-court statement shall not be hearsay if the declarant testifies at the trial
 1016 or hearing, is subject to cross-examination concerning the statement, and the statement
 1017 is admissible as a prior inconsistent statement or a prior consistent statement under
 1018 Code Section 24-6-613 or is otherwise admissible under this chapter.

1019 (B) If a hearsay statement is admitted and the declarant does not testify at the trial or
 1020 hearing, other out-of-court statements of the declarant shall be admissible for the
 1021 limited use of impeaching or rehabilitating the credibility of the declarant, and not as

1022 substantive evidence, if the other statements qualify as prior inconsistent statements or
 1023 prior consistent statements under Code Section 24-6-613.

1024 (C) A statement shall not be hearsay if the declarant testifies at the trial or hearing and
 1025 is subject to cross-examination concerning the statement, and the statement is one of
 1026 identification of a person made after perceiving the person; and

1027 (2) Admissions by party-opponent.

1028 Admissions shall not be excluded by the hearsay rule. An admission is a statement
 1029 offered against a party which is:

1030 (A) The party's own statement, in either an individual or representative capacity;

1031 (B) A statement of which the party has manifested an adoption or belief in its truth;

1032 (C) A statement by a person authorized by the party to make a statement concerning
 1033 the subject;

1034 (D) A statement by the party's agent or employee, but not including any agent of the
 1035 state in a criminal proceeding, concerning a matter within the scope of the agency or
 1036 employment, made during the existence of the relationship; or

1037 (E) A statement by a coconspirator of a party during the course and in furtherance of
 1038 the conspiracy, including a statement made during the concealment phase of a
 1039 conspiracy. A conspiracy need not be charged in order to make a statement admissible
 1040 under this subparagraph.

1041 The contents of the statement shall be considered but shall not alone be sufficient to
 1042 establish the declarant's authority under subparagraph (C) of this paragraph, the agency
 1043 or employment relationship and scope thereof under subparagraph (D) of this paragraph,
 1044 or the existence of the conspiracy and the participation therein of the declarant and the
 1045 party against whom the statement is offered under subparagraph (E) of this paragraph.

1046 (e) 'Public office' means:

1047 (1) Every state department, agency, board, bureau, commission, division, public
 1048 corporation, and authority;

1049 (2) Every county, municipal corporation, school district, or other political subdivision
 1050 of this state;

1051 (3) Every department, agency, board, bureau, commission, authority, or similar body of
 1052 each such county, municipal corporation, or other political subdivision of this state; and

1053 (4) Every city, county, regional, or other authority established pursuant to the laws of this
 1054 state.

1055 (f) 'Public official' means an elected or appointed official.

1056 (g) 'Public record' means information that is inscribed on a tangible medium or that is
 1057 stored in an electronic or other medium and is retrievable in perceivable form and created
 1058 in the course of the operation of a public office.

1059 24-8-802.

1060 Hearsay shall not be admissible except as provided by this article; provided, however, that
 1061 if a party does not properly object to hearsay, the objection shall be deemed waived, and
 1062 the hearsay evidence shall be legal evidence and admissible.

1063 24-8-803.

1064 The following shall not be excluded by the hearsay rule, even though the declarant is
 1065 available as a witness:

1066 (1) *Present sense impression.* A statement describing or explaining an event or condition
 1067 made while the declarant was perceiving the event or condition or immediately thereafter;

1068 (2) *Excited utterance.* A statement relating to a startling event or condition made while
 1069 the declarant was under the stress of excitement caused by the event or condition;

1070 (3) *Then existing mental, emotional, or physical condition.* A statement of the
 1071 declarant's then existing state of mind, emotion, sensation, or physical condition, such as
 1072 intent, plan, motive, design, mental feeling, pain, and bodily health, but not including a
 1073 statement of memory or belief to prove the fact remembered or believed unless such
 1074 statements relate to the execution, revocation, identification, or terms of the declarant's
 1075 will and not including a statement of belief as to the intent of another person;

1076 (4) *Statements for purposes of medical diagnosis or treatment.* Statements made for
 1077 purposes of medical diagnosis or treatment and describing medical history, or past or
 1078 present symptoms, pain, or sensations, or the inception or general character of the cause
 1079 or external source thereof insofar as reasonably pertinent to diagnosis or treatment;

1080 (5) *Recorded recollection.* A memorandum or record concerning a matter about which
 1081 a witness once had knowledge but now has insufficient recollection to enable the witness
 1082 to testify fully and accurately shown to have been made or adopted by the witness when
 1083 the matter was fresh in the witness's memory and to reflect that knowledge correctly. If
 1084 admitted, the memorandum or record may be read into evidence but shall not itself be
 1085 received as an exhibit unless offered by an adverse party;

1086 (6) *Records of regularly conducted activity.* Unless the source of information or the
 1087 method or circumstances of preparation indicate lack of trustworthiness and subject to the
 1088 provisions of Chapter 7 of this title, a memorandum, report, record, or data compilation,
 1089 in any form, of acts, events, conditions, opinions, or diagnoses, if (A) made at or near the
 1090 time of the described acts, events, conditions, opinions, or diagnoses; (B) made by, or
 1091 from information transmitted by, a person with personal knowledge and a business duty
 1092 to report; (C) kept in the course of a regularly conducted business activity; and (D) it was
 1093 the regular practice of that business activity to make the memorandum, report, record, or
 1094 data compilation, all as shown by the testimony of the custodian or other qualified

1095 witness or by certification that complies with paragraph (11) or (12) of Code Section
 1096 24-9-902 or by any other statute permitting certification. The term 'business' as used in
 1097 this paragraph includes any business, institution, association, profession, occupation, and
 1098 calling of every kind, whether or not conducted for profit. Public records and reports
 1099 shall be admissible under paragraph (8) of this Code section and shall not be admissible
 1100 under this paragraph;

1101 (7) *Absence of entry in records kept in accordance with paragraph (6) of this Code*
 1102 *section.* Evidence that a matter is not included in the memoranda, reports, records, or
 1103 data compilations, in any form, kept in accordance with the provisions of paragraph (6)
 1104 of this Code section, to prove the nonoccurrence or nonexistence of the matter, if the
 1105 matter was of a kind of which a memorandum, report, record, or data compilation was
 1106 regularly made and preserved, unless the sources of information or other circumstances
 1107 indicate lack of trustworthiness;

1108 (8) *Public records and reports.* Except as otherwise provided by law, public records,
 1109 reports, statements, or data compilations, in any form, of public offices, setting forth:

1110 (A) The activities of the public office;

1111 (B) Matters observed pursuant to duty imposed by law as to which matters there was
 1112 a duty to report, excluding, however, against the accused in criminal proceedings,
 1113 matters observed by police officers and other law enforcement personnel in connection
 1114 with an investigation; or

1115 (C) In civil proceedings and against the state in criminal proceedings, factual findings
 1116 resulting from an investigation made pursuant to authority granted by law, unless the
 1117 sources of information or other circumstances indicate lack of trustworthiness;

1118 (9) *Records of vital statistics.* Records or data compilations, in any form, of births, fetal
 1119 deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to
 1120 requirements of law;

1121 (10) *Absence of public record or entry.* To prove the absence of a record, report,
 1122 statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a
 1123 matter of which a record, report, statement, or data compilation, in any form, was
 1124 regularly made and preserved by a public office, evidence in the form of a certification
 1125 in accordance with Code Section 24-9-902, or testimony, that diligent search failed to
 1126 disclose the record, report, statement, or data compilation, or entry;

1127 (11) *Records of religious organizations.* Statements of birth, marriages, divorces, deaths,
 1128 legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal
 1129 or family history, contained in a regularly kept record of a religious organization;

1130 (12) *Marriage, baptismal, and similar certificates.* Statements of fact contained in a
 1131 certificate that the maker performed a marriage or other ceremony or administered a

1132 sacrament, made by a clergyman, public official, or other person authorized by the rules
1133 or practices of a religious organization or by law to perform the act certified and
1134 purporting to have been issued at the time of the act or within a reasonable time
1135 thereafter;

1136 (13) *Family records.* Statements of fact concerning personal or family history contained
1137 in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits,
1138 engravings on urns, crypts, or tombstones, or the like;

1139 (14) *Records of documents affecting an interest in property.* The record of a document
1140 purporting to establish or affect an interest in property, as proof of the content of the
1141 original recorded document and its execution and delivery by each person by whom it
1142 purports to have been executed, if the record is a record of a public office and an
1143 applicable law authorizes the recording of documents of that kind in such office;

1144 (15) *Statements in documents affecting an interest in property.* A statement contained
1145 in a document purporting to establish or affect an interest in property if the matter stated
1146 was relevant to the purpose of the document, unless dealings with the property since the
1147 document was made have been inconsistent with the truth of the statement or the purport
1148 of the document;

1149 (16) *Statements in ancient documents.* Statements in a document in existence 20 years
1150 or more the authenticity of which is established;

1151 (17) *Market reports and commercial publications.* Market quotations, tabulations, lists,
1152 directories, or other published compilations generally used and relied upon by the public
1153 or by persons in the witness's particular occupation;

1154 (18) *Learned treatises.* To the extent called to the attention of an expert witness upon
1155 cross-examination, statements contained in published treatises, periodicals, or pamphlets,
1156 whether published electronically or in print, on a subject of history, medicine, or other
1157 science or art, established as a reliable authority by the testimony or admission of the
1158 witness, by other expert testimony, or by judicial notice. If admitted, the statements may
1159 be used for cross-examination of an expert witness and read into evidence but shall not
1160 be received as exhibits;

1161 (19) *Reputation concerning personal or family history.* Reputation among members of
1162 a person's family by blood, adoption, or marriage or among a person's associates or in the
1163 community concerning a person's birth, adoption, marriage, divorce, death, legitimacy,
1164 relationship by blood, adoption, or marriage, ancestry, or other similar fact of the person's
1165 personal or family history;

1166 (20) *Reputation concerning boundaries or general history.* Reputation in a community,
1167 arising before the controversy, as to boundaries of or customs affecting lands in the

1168 community and reputation as to events of general history important to the community or
 1169 state or nation in which such lands are located;

1170 (21) Reputation as to character. Reputation of a person's character among associates or
 1171 in the community;

1172 (22) Judgment of previous conviction. Evidence of a final judgment, entered after a trial
 1173 or upon a plea of guilty but not upon a plea of nolo contendere, adjudging a person guilty
 1174 of a crime punishable by death or imprisonment in excess of one year to prove any fact
 1175 essential to sustain the judgment, but not including, when offered by the state in a
 1176 criminal prosecution for purposes other than impeachment, judgments against persons
 1177 other than the accused. The pendency of an appeal may be shown but shall not affect
 1178 admissibility; or

1179 (23) Judgment as to personal, family, or general history or boundaries. Judgments as
 1180 proof of matters of personal, family, or general history or boundaries essential to the
 1181 judgment, if the same would be provable by evidence of reputation.

1182 24-8-804.

1183 (a) As used in this Code section, the term 'unavailable as a witness' includes situations in
 1184 which the declarant:

1185 (1) Is exempted by ruling of the court on the ground of privilege from testifying
 1186 concerning the subject matter of the declarant's statement;

1187 (2) Persists in refusing to testify concerning the subject matter of the declarant's
 1188 statement despite an order of the court to do so;

1189 (3) Testifies to a lack of memory of the subject matter of the declarant's statement;

1190 (4) Is unable to be present or to testify at the hearing because of death or then existing
 1191 physical or mental illness or infirmity; or

1192 (5) Is absent from the hearing and the proponent of the statement has been unable to
 1193 procure the declarant's attendance or, in the case of exceptions under paragraph (2), (3),
 1194 or (4) of subsection (b) of this Code section, the declarant's attendance or testimony, by
 1195 process or other reasonable means.

1196 A declarant shall not be deemed unavailable as a witness if the declarant's exemption,
 1197 refusal, claim of lack of memory, inability, or absence is due to the procurement or
 1198 wrongdoing of the proponent of a statement for the purpose of preventing the witness from
 1199 attending or testifying.

1200 (b) The following shall not be excluded by the hearsay rule if the declarant is unavailable
 1201 as a witness:

1202 (1) Testimony given as a witness at another hearing of the same or a different
 1203 proceeding, or in a deposition taken in compliance with law in the course of the same or

1204 another proceeding, if the party against whom the testimony is now offered, or, in a civil
1205 proceeding, a predecessor in interest, had an opportunity and similar motive to develop
1206 the testimony by direct, cross, or redirect examination. If deposition testimony is
1207 admissible under either the rules stated in Code Section 9-11-32 or this Code section, it
1208 shall be admissible at trial in accordance with the rules under which it was offered;

1209 (2) In a prosecution for homicide or in a civil proceeding, a statement made by a
1210 declarant while believing that his or her death was imminent, concerning the cause or
1211 circumstances of what the declarant believed to be impending death;

1212 (3) A statement which was at the time of its making so far contrary to the declarant's
1213 pecuniary or proprietary interest or so far tended to subject the declarant to civil or
1214 criminal liability or to render invalid a claim by the declarant against another that a
1215 reasonable person in the declarant's position would not have made the statement unless
1216 believing it to be true. A statement tending to expose the declarant to criminal liability
1217 and offered to exculpate the accused shall not be admissible unless corroborating
1218 circumstances clearly indicate the trustworthiness of the statement;

1219 (4) A statement concerning the declarant's own birth, adoption, marriage, divorce,
1220 legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact
1221 of personal or family history, even though the declarant had no means of acquiring
1222 personal knowledge of the matter stated or a statement concerning the foregoing matters
1223 and death also of another person, if the declarant was related to the other by blood,
1224 adoption, or marriage or was so intimately associated with the other's family as to be
1225 likely to have accurate information concerning the matter declared; or

1226 (5) A statement offered against a party that has engaged or acquiesced in wrongdoing
1227 that was intended to, and did, procure the unavailability of the declarant as a witness.

1228 24-8-805.

1229 Hearsay included within hearsay shall not be excluded under the hearsay rule if each part
1230 of the combined statements conforms with an exception to the hearsay rule.

1231 24-8-806.

1232 When a hearsay statement has been admitted in evidence, the credibility of the declarant
1233 may be attacked and, if attacked, may be supported by any evidence which would be
1234 admissible for those purposes if the declarant had testified as a witness. Evidence of a
1235 statement or conduct by the declarant at any time, inconsistent with the declarant's hearsay
1236 statement, shall not be subject to any requirement that the declarant may have been
1237 afforded an opportunity to deny or explain. If the party against whom a hearsay statement

1238 has been admitted calls the declarant as a witness, the party shall be entitled to examine the
1239 declarant on the statement as if under cross-examination.

1240 24-8-807.

1241 A statement not specifically covered by any law but having equivalent circumstantial
1242 guarantees of trustworthiness shall not be excluded by the hearsay rule, if the court
1243 determines that:

1244 (1) The statement is offered as evidence of a material fact;

1245 (2) The statement is more probative on the point for which it is offered than any other
1246 evidence which the proponent can procure through reasonable efforts; and

1247 (3) The general purposes of the rules of evidence and the interests of justice will best be
1248 served by admission of the statement into evidence.

1249 However, a statement may not be admitted under this Code section unless the proponent
1250 of it makes known to the adverse party, sufficiently in advance of the trial or hearing to
1251 provide the adverse party with a fair opportunity to prepare to meet it, the proponent's
1252 intention to offer the statement and the particulars of it, including the name and address of
1253 the declarant.

1254 ARTICLE 2

1255 24-8-820.

1256 A statement made by a child under the age of 14 years describing any act of sexual contact
1257 or physical abuse performed with or on the child by another shall be admissible in evidence
1258 by the testimony of the person to whom made if the child is available to testify in the
1259 proceedings and the court finds that the circumstances of the statement provide sufficient
1260 indicia of reliability.

1261 24-8-821.

1262 Without offering the same in evidence, either party may avail himself or herself of
1263 allegations or admissions made in the pleadings of the other.

1264 24-8-822.

1265 When an admission is given in evidence by one party, it shall be the right of the other party
1266 to have the whole admission and all the conversation connected therewith admitted into
1267 evidence.

1268 24-8-823.

1269 All admissions shall be scanned with care, and confessions of guilt shall be received with
1270 great caution. A confession alone, uncorroborated by any other evidence, shall not justify
1271 a conviction.

1272 24-8-824.

1273 To make a confession admissible, it shall have been made voluntarily, without being
1274 induced by another by the slightest hope of benefit or remotest fear of injury.

1275 24-8-825.

1276 The fact that a confession has been made under a spiritual exhortation, a promise of
1277 secrecy, or a promise of collateral benefit shall not exclude it.

1278 24-8-826.

1279 (a) Upon the trial of any civil proceeding involving injury or disease, any medical report
1280 in narrative form which has been signed and dated by an examining or treating licensed
1281 physician, dentist, orthodontist, podiatrist, physical or occupational therapist, doctor of
1282 chiropractic, psychologist, advanced practice registered nurse, social worker, professional
1283 counselor, or marriage and family therapist shall be admissible and received in evidence
1284 insofar as it purports to represent the history, examination, diagnosis, treatment, prognosis,
1285 or interpretation of tests or examinations, including the basis therefor, by the person signing
1286 the report, the same as if that person were present at trial and testifying as a witness;
1287 provided, however, that such report and notice of intention to introduce such report shall
1288 first be provided to the adverse party at least 60 days prior to trial. A statement of the
1289 qualifications of the person signing such report shall be included as part of the basis for
1290 providing the information contained therein, and the opinion of the person signing the
1291 report with regard to the etiology of the injury or disease may be included as part of the
1292 diagnosis. Any adverse party may object to the admissibility of any portion of the report,
1293 other than on the ground that it is hearsay, within 15 days of being provided with the report.
1294 Further, any adverse party shall have the right to cross-examine the person signing the
1295 report and provide rebuttal testimony. The party tendering the report may also introduce
1296 testimony of the person signing the report for the purpose of supplementing the report or
1297 otherwise.

1298 (b) The medical narrative shall be presented to the jury as depositions are presented to the
1299 jury and shall not go out with the jury as documentary evidence.

CHAPTER 9

ARTICLE 1

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24-9-901.

(a) The requirement of authentication or identification as a condition precedent to admissibility shall be satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

(b) By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this Code section:

(1) Testimony of a witness with knowledge that a matter is what it is claimed to be;

(2) Nonexpert opinion as to the genuineness of handwriting, based upon familiarity not acquired for purposes of the litigation;

(3) Comparison by the trier of fact or by expert witnesses with specimens which have been authenticated. Such specimens shall be furnished to the opposite party no later than ten days prior to trial;

(4) Appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances;

(5) Identification of a voice, whether heard firsthand or through mechanical or electronic transmission or recording, by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker;

(6) Telephone conversations, by evidence that a call was made to the number assigned at the time by a telephone service provider to a particular person or business, if:

(A) In the case of a person, circumstances, including self-identification, show the person answering to be the one called; or

(B) In the case of a business, the call was made to a place of business and the conversation related to business reasonably transacted over the telephone;

(7) Evidence that a document authorized by law to be recorded or filed and in fact recorded or filed in a public office or a purported public record, report, statement, or data compilation, in any form, is from the public office where items of this nature are kept;

(8) Evidence that a document or data compilation, in any form:

(A) Is in such condition as to create no suspicion concerning its authenticity;

(B) Was in a place where it, if authentic, would likely be; and

(C) Has been in existence 20 years or more at the time it is offered;

(9) Evidence describing a process or system used to produce a result and showing that the process or system produces an accurate result; or

(10) Any method of authentication or identification provided by law.

1335 24-9-902.

1336 Extrinsic evidence of authenticity as a condition precedent to admissibility shall not be
1337 required with respect to the following:

1338 (1) A document bearing a seal purporting to be that of the United States or of any state,
1339 district, commonwealth, territory, or insular possession thereof or the Panama Canal Zone
1340 or the Trust Territory of the Pacific Islands or of a political subdivision, department,
1341 officer, or agency thereof or of a municipal corporation of this state and bearing a
1342 signature purporting to be an attestation or execution;

1343 (2) A document purporting to bear the signature in the official capacity of an officer or
1344 employee of any entity included in paragraph (1) of this Code section having no seal, if
1345 a public officer having a seal and having official duties in the district or political
1346 subdivision of the officer or employee certifies under seal that the signer has the official
1347 capacity and that the signature is genuine;

1348 (3) A document purporting to be executed or attested in an official capacity by a person
1349 authorized by the laws of a foreign country to make such execution or attestation and
1350 accompanied by a final certification as to the genuineness of the signature, official
1351 position of the executing or attesting person, or of any foreign official whose certificate
1352 of genuineness of signature and official position relates to such execution or attestation
1353 or is in a chain of certificates of genuineness of signature and official position relating to
1354 such execution or attestation. A final certification may be made by a secretary of
1355 embassy or legation, consul general, consul, vice consul, or consular agent of the United
1356 States or a diplomatic or consular official of the foreign country assigned or accredited
1357 to the United States. If reasonable opportunity has been given to all parties to investigate
1358 the authenticity and accuracy of official documents, the court may, for good cause shown,
1359 order that such documents be treated as presumptively authentic without final
1360 certification or permit such documents to be evidenced by an attested summary with or
1361 without final certification;

1362 (4) A duplicate of an official record or report or entry therein or of a document
1363 authorized by law to be recorded or filed and actually recorded or filed in a public office,
1364 including data compilations in any form, certified as correct by the custodian or other
1365 person authorized to make the certification by certificate complying with paragraph (1),
1366 (2), or (3) of this Code section or complying with any law of the United States or of this
1367 state, including Code Section 24-9-920;

1368 (5) Books, pamphlets, or other publications purporting to be issued by a public office;

1369 (6) Printed materials purporting to be newspapers or periodicals;

1370 (7) Inscriptions, signs, tags, or labels purporting to have been affixed in the course of
1371 business and indicating ownership, control, or origin;

1372 (8) Documents accompanied by a certificate of acknowledgment executed in the manner
 1373 provided by law by a notary public or other officer authorized by law to take
 1374 acknowledgments;

1375 (9) Commercial paper, signatures thereon, and documents relating thereto to the extent
 1376 provided by general commercial law;

1377 (10) Any signature, document, or other matter declared by any law of the United States
 1378 or of this state to be presumptively or prima facie genuine or authentic;

1379 (11) The original or a duplicate of a domestic record of regularly conducted activity that
 1380 would be admissible under paragraph (6) of Code Section 24-8-803 if accompanied by
 1381 a written declaration of its custodian or other qualified person certifying that the record:

1382 (A) Was made at or near the time of the occurrence of the matters set forth by, or from
 1383 information transmitted by, a person with knowledge of such matters;

1384 (B) Was kept in the course of the regularly conducted activity; and

1385 (C) Was made by the regularly conducted activity as a regular practice.

1386 A party intending to offer a record into evidence under this paragraph shall provide
 1387 written notice of such intention to all adverse parties and shall make the record and
 1388 declaration available for inspection sufficiently in advance of their offer into evidence to
 1389 provide an adverse party with a fair opportunity to challenge such record and declaration;
 1390 or

1391 (12) In a civil proceeding, the original or a duplicate of a foreign record of regularly
 1392 conducted activity that would be admissible under paragraph (6) of Code Section
 1393 24-8-803 if accompanied by a written declaration by its custodian or other qualified
 1394 person certifying that the record:

1395 (A) Was made at or near the time of the occurrence of the matters set forth by, or from
 1396 information transmitted by, a person with knowledge of those matters;

1397 (B) Was kept in the course of the regularly conducted activity; and

1398 (C) Was made by the regularly conducted activity as a regular practice.

1399 The declaration shall be signed in a manner that, if falsely made, would subject the maker
 1400 to criminal penalty under the laws of the country where the declaration is signed. A party
 1401 intending to offer a record into evidence under this paragraph shall provide written notice
 1402 of such intention to all adverse parties and shall make the record and declaration available
 1403 for inspection sufficiently in advance of their offer into evidence to provide an adverse
 1404 party with a fair opportunity to challenge such record and declaration.

1405 24-9-903.

1406 The testimony of a subscribing witness shall not be necessary to authenticate a writing
 1407 unless required by the laws of the jurisdiction whose laws govern the validity of the
 1408 writing.

1409 24-9-904.

1410 As used in this article, the term:

1411 (1) 'Public office' shall have the same meaning as set forth in Code Section 24-8-801.

1412 (2) 'Public officer' means any person appointed or elected to be the head of any entity
 1413 included in paragraph (1) of Code Section 24-9-902.

1414 (3) 'Telephone service provider' shall have the same meaning as 'voice service provider'
 1415 as set forth in Code Section 46-5-231.

1416 ARTICLE 2

1417 24-9-920.

1418 The certificate or attestation of any public officer either of this state or any county thereof
 1419 or any clerk or keeper of county, consolidated government, or municipal records in this
 1420 state shall give sufficient validity or authenticity to any copy or transcript of any record,
 1421 document, paper or file, or other matter or thing in such public officer's respective office,
 1422 or pertaining thereto, to admit the same in evidence.

1423 24-9-921.

1424 (a) Upon the trial of any civil proceeding involving injury or disease, the patient or the
 1425 member of his or her family or other person responsible for the care of the patient shall be
 1426 a competent witness to identify bills for expenses incurred in the treatment of the patient
 1427 upon a showing by such a witness that the expenses were incurred in connection with the
 1428 treatment of the injury, disease, or disability involved in the subject of litigation at trial and
 1429 that the bills were received from:

1430 (1) A hospital;

1431 (2) An ambulance service;

1432 (3) A pharmacy, drugstore, or supplier of therapeutic or orthopedic devices; or

1433 (4) A licensed practicing physician, dentist, orthodontist, podiatrist, physical or
 1434 occupational therapist, doctor of chiropractic, psychologist, advanced practice registered
 1435 nurse, social worker, professional counselor, or marriage and family therapist.

1436 (b) Such items of evidence need not be identified by the one who submits the bill, and it
 1437 shall not be necessary for an expert witness to testify that the charges were reasonable and

1438 necessary. However, nothing in this Code section shall be construed to limit the right of
 1439 a thorough and sifting cross-examination as to such items of evidence.

1440 24-9-922.

1441 The acts of the legislature of any other state, territory, or possession of the United States,
 1442 the records and judicial proceedings of any court of any such state, territory, or possession,
 1443 and the nonjudicial records or books kept in the public offices in any such state, territory,
 1444 or possession, if properly authenticated, shall have the same full faith and credit in every
 1445 court within this state as they have by law or usage in the courts of such state, territory, or
 1446 possession from which they are taken.

1447 24-9-923.

1448 (a) As used in this Code section, the term 'unavailability of a witness' includes situations
 1449 in which the authenticating witness:

1450 (1) Is exempted by ruling of the court on the ground of privilege from testifying
 1451 concerning the subject matter of the authentication;

1452 (2) Persists in refusing to testify concerning the subject matter of the authentication
 1453 despite an order of the court to do so;

1454 (3) Testifies to a lack of memory of the subject matter of the authentication;

1455 (4) Is unable to be present or to testify at the hearing because of death or then existing
 1456 physical or mental illness or infirmity; or

1457 (5) Is absent from the hearing and the proponent of the authentication has been unable
 1458 to procure the attendance of the authenticating witness by process or other reasonable
 1459 means.

1460 An authenticating witness shall not be deemed unavailable as a witness if his or her
 1461 exemption, refusal, claim of lack of memory, inability, or absence is due to the
 1462 procurement or wrongdoing of the proponent of an authentication for the purpose of
 1463 preventing the witness from attending or testifying.

1464 (b) Subject to any other valid objection, photographs, motion pictures, video recordings,
 1465 and audio recordings shall be admissible in evidence when necessitated by the
 1466 unavailability of a witness who can provide personal authentication and when the court
 1467 determines, based on competent evidence presented to the court, that such items tend to
 1468 show reliably the fact or facts for which the items are offered.

1469 (c) Subject to any other valid objection, photographs, motion pictures, video recordings,
 1470 and audio recordings produced at a time when the device producing the items was not
 1471 being operated by an individual person or was not under the personal control or in the
 1472 presence of an individual operator shall be admissible in evidence when the court

1473 determines, based on competent evidence presented to the court, that such items tend to
 1474 show reliably the fact or facts for which the items are offered, provided that, prior to the
 1475 admission of such evidence, the date and time of such photograph, motion picture, or video
 1476 recording shall be contained on such evidence, and such date and time shall be shown to
 1477 have been made contemporaneously with the events depicted in such photograph, motion
 1478 picture, or video recording.

1479 (d) This Code section shall not be the exclusive method of introduction into evidence of
 1480 photographs, motion pictures, video recordings, and audio recordings but shall be
 1481 supplementary to any other law and lawful methods existing in this state.

1482 24-9-924.

1483 (a) Any court may receive and use as evidence in any proceeding information otherwise
 1484 admissible from the records of the Department of Public Safety or the Department of
 1485 Driver Services obtained from any terminal lawfully connected to the Georgia Crime
 1486 Information Center without the need for additional certification of such records.

1487 (b) Any court may receive and use as evidence for the purpose of imposing a sentence in
 1488 any criminal proceeding information otherwise admissible from the records of the
 1489 Department of Driver Services obtained from a request made in accordance with a contract
 1490 with the Georgia Technology Authority for immediate on-line electronic furnishing of
 1491 information.

1492 CHAPTER 10

1493 24-10-1001.

1494 As used in this chapter, the term:

1495 (1) 'Writing' or 'recording' means letters, words, or numbers, or their equivalent, set down
 1496 by handwriting, typewriting, printing, photostating, magnetic impulse, or mechanical or
 1497 electronic recording or other form of data compilation.

1498 (2) 'Photograph' includes still photographs, X-ray films, video recordings, and motion
 1499 pictures.

1500 (3) 'Original' means the writing or recording itself or any counterpart intended to have
 1501 the same effect by a person executing or issuing it. An original of a photograph includes
 1502 the negative or any print therefrom. If data are stored in a computer or similar device,
 1503 any printout or other output readable by sight, shown to reflect the data accurately, is an
 1504 original.

1505 (4) 'Duplicate' means a counterpart produced by the same impression as the original or
 1506 from the same matrix or by means of photography, including enlargements and

1507 miniatures, or by mechanical or electronic rerecording, chemical reproduction, or other
 1508 equivalent techniques which accurately reproduce the original.

1509 (5) 'Public record' shall have the same meaning as set forth in Code Section 24-8-801.

1510 24-10-1002.

1511 To prove the contents of a writing, recording, or photograph, the original writing,
 1512 recording, or photograph shall be required.

1513 24-10-1003.

1514 A duplicate shall be admissible to the same extent as an original unless:

1515 (1) A genuine question is raised as to the authenticity of the original; or

1516 (2) A circumstance exists where it would be unfair to admit the duplicate in lieu of the
 1517 original.

1518 24-10-1004.

1519 The original shall not be required and other evidence of the contents of a writing,
 1520 recording, or photograph shall be admissible if:

1521 (1) All originals are lost or have been destroyed, unless the proponent lost or destroyed
 1522 them in bad faith;

1523 (2) No original can be obtained by any available judicial process or procedure;

1524 (3) At a time when an original was under the control of the party against whom offered,
 1525 that party was put on notice, by the pleadings or otherwise, that the contents would be a
 1526 subject of proof at the hearing, and that party does not produce the original at the hearing;

1527 or

1528 (4) The writing, recording, or photograph is not closely related to a controlling issue.

1529 24-10-1005.

1530 The contents of a public record, or of a document authorized to be recorded or filed and
 1531 actually recorded or filed, including data compilations in any form, if otherwise admissible,
 1532 may be proved by duplicate, certified as correct in accordance with Code Section 24-9-902
 1533 or Code Section 24-9-920 or testified to be correct by a witness who has compared it with
 1534 the original. If a duplicate which complies with this Code section cannot be obtained by
 1535 the exercise of reasonable diligence, then other evidence of the contents may be given.

1536 24-10-1006.

1537 The contents of otherwise admissible voluminous writings, recordings, or photographs
 1538 which cannot conveniently be examined in court may be presented in the form of a chart,

1539 summary, or calculation. The originals, or duplicates, shall be made available for
 1540 examination or copying, or both, by other parties at a reasonable time and place. The court
 1541 may order that the contents of such writings, recordings, or photographs be produced in
 1542 court.

1543 24-10-1007.

1544 The contents of writings, recordings, or photographs may be proved by the testimony or
 1545 deposition of the party against whom offered or by that party's written admission, without
 1546 accounting for the nonproduction of the original.

1547 24-10-1008.

1548 When the admissibility of other evidence of the contents of writings, recordings, or
 1549 photographs under the rules of evidence depends upon the fulfillment of a condition of fact,
 1550 the question of whether the condition has been fulfilled is ordinarily for the court to
 1551 determine in accordance with the provisions of Code Section 24-1-104; provided, however,
 1552 that when an issue is raised as to:

1553 (1) Whether the asserted writing, recording, or photograph ever existed;

1554 (2) Whether another writing, recording, or photograph produced at the trial is the
 1555 original; or

1556 (3) Whether other evidence of the contents correctly reflects the contents,

1557 the issue is for the trier of fact to determine as in the case of other issues of fact.

1558 CHAPTER 11

1559 ARTICLE 1

1560 24-11-1.

1561 As used in this chapter, the term:

1562 (1) 'Custodian' means the person charged with the duty of maintaining public records.

1563 (2) 'Duplicate' means a counterpart which accurately reproduces the original.

1564 (3) 'Public record' shall have the same meaning as set forth in Code Section 24-8-801.

1565 24-11-2.

1566 (a) Where any original public records have been lost, mutilated, stolen, or destroyed, the
 1567 custodian may establish duplicates in accordance with the provisions of this article. When
 1568 such public records are established by duplicates, they shall have all of the effect in
 1569 evidence as the original records would have had.

1570 (b) The custodian of the lost, mutilated, stolen, or destroyed public records shall bring a
 1571 petition to establish such records in the superior court of the county in which the public
 1572 records were located.

1573 (c) The petition shall set forth the fact that some portion of the public records has been
 1574 lost, mutilated, stolen, or destroyed, specifying as nearly as may be possible the books or
 1575 parts of the books in which those records existed, and shall pray for the establishment of
 1576 such records.

1577 24-11-3.

1578 (a) The court shall either appoint an auditor for such petition in accordance with Chapter
 1579 7 of Title 9 or shall conduct a hearing on the petition. If an auditor is appointed, the
 1580 provisions of Code Sections 9-7-1 through 9-7-16 and Code Section 9-7-21 shall apply to
 1581 such proceedings. An auditor shall receive compensation for services rendered as may be
 1582 allowed by the court, to be paid out of the funds of the office of the custodian whose
 1583 records were lost, mutilated, stolen, or destroyed.

1584 (b) If the court hears the petition, after receiving evidence, the court shall determine
 1585 whether the purported duplicate is, in fact, the same as the original record which has been
 1586 lost, mutilated, stolen, or destroyed, and it shall be discretionary with the court to order the
 1587 whole or any part of such records established. The court shall give precedence to a petition
 1588 filed pursuant to this article and hear the petition as speedily as possible.

1589 (c) The duplicates which are established pursuant to this Code section, as nearly as may
 1590 be possible, shall specify and conform to the original book and pages of the same on which
 1591 they originally existed.

1592 ARTICLE 2

1593 24-11-20.

1594 (a) Upon the loss of any original pleading, declaration, bill of indictment, special
 1595 presentment, accusation, or other office paper, a duplicate may be established instanter on
 1596 motion.

1597 (b) As used in this article, the term 'office paper' means the instrument upon which a
 1598 proceeding has been brought after the case has gone to trial.

1599 24-11-21.

1600 (a) The owner, agent of the owner, or legal representative of the owner of any bond, bill,
 1601 note, draft, check, or other evidence of indebtedness which has been lost or destroyed may
 1602 establish a duplicate of the same in a summary manner by filing a petition with the judge

1603 of the probate court of the county of the residence of the alleged debtor or maker, if he or
1604 she is a resident of this state; and the judge of the probate court shall be deemed a judicial
1605 officer for the purpose of this Code section. The petition shall be sworn to by the party
1606 applying and shall contain as full and accurate a description as possible of the lost paper,
1607 of the loss and mode of loss, and of the inability to find the same and why, along with a
1608 prayer for the establishment of a duplicate setting forth the duplicate desired to be
1609 established.

1610 (b) Upon the filing of a petition, the judge shall issue a citation or notice to the alleged
1611 debtor or maker requiring the debtor or maker to appear at a day not more than ten days
1612 distant and show cause, if he or she has any, why the duplicate should not be established
1613 in lieu of the lost original. The citation or notice shall be personally served in the manner
1614 provided in Code Section 9-11-4 at least five days before the time of the hearing.

1615 (c) If no successful defense is made at the time and place appointed, the judge shall
1616 proceed to establish, by an order entered on the petition, the duplicate so prayed to be
1617 established, which shall have all the effect of the original. The petition, notice, and order
1618 shall be entered in a book of record specially prepared for this purpose.

1619 (d) If the debtor or maker files a defense under oath to the effect that the original never
1620 existed as claimed, the judge shall decide the case, after giving the parties time for
1621 preparation and hearing, not to exceed 20 days. If the judge's decision is in favor of the
1622 applicant and no appeal is entered as provided in subsection (e) of this Code section, the
1623 decision shall be entered on the petition, and the duplicate so established shall have the
1624 same effect as an original. If the judge's decision is in favor of the alleged debtor or maker,
1625 the judge shall also enter his or her decision on the petition. In all cases, the proceedings
1626 shall be recorded as provided in subsection (c) of this Code section.

1627 (e) Except as provided in Article 6 of Chapter 9 of Title 15, if either party to the
1628 proceedings provided for in this Code section is dissatisfied, such party may appeal upon
1629 giving the usual bond and security for costs, as in cases of appeal from the probate court
1630 to the superior court. The appeal shall be tried in the superior court from all the pleadings
1631 and proceedings as were before the judge of the probate court. In the superior court, the
1632 case shall be tried and determined as provided in Code Sections 24-11-23 through
1633 24-11-26.

1634 (f) This Code section shall not apply to evidences of indebtedness to which Title 11, the
1635 'Uniform Commercial Code,' is applicable.

1636 24-11-22.

1637 When the person alleged to be a debtor or maker of a lost or destroyed paper as set forth
1638 in Code Section 24-11-21 does not reside in this state, the alleged debtor or maker may be

1639 made a party to the proceedings by publication, in a newspaper to be designated by the
1640 judge of the probate court, twice a month for two months. When the person has been made
1641 a party, this article shall apply in his or her case.

1642 24-11-23.

1643 (a) The owner of a lost or destroyed paper which is not an office paper, as defined in Code
1644 Section 24-11-20, who desires to establish such paper shall present to the clerk of the
1645 superior court of the county where the maker of the paper resides, if the maker is a resident
1646 of this state, a petition in writing, together with a duplicate, in substance, of the paper lost
1647 or destroyed, as nearly as he or she can recollect, which duplicate shall be sworn to by the
1648 petitioner, the petitioner's agent, or the petitioner's attorney.

1649 (b) The clerk shall issue a rule nisi in the name of the judge of the superior court calling
1650 upon the opposite party to show cause, if he or she has any, why the duplicate sworn to
1651 should not be established in lieu of the lost or destroyed original. If the respondent is found
1652 in this state, the rule nisi shall be served personally upon the respondent in the manner
1653 provided by Code Section 9-11-4 at least 20 days before the sitting of the court to which
1654 the rule nisi is made returnable. If the respondent cannot be found in this state, the rule nisi
1655 shall be served upon the respondent by publication in the manner provided in Code Section
1656 9-11-4 before the final hearing of the rule nisi.

1657 24-11-24.

1658 In a proceeding to establish lost papers under Code Section 24-11-23, no continuance shall
1659 be granted unless it appears reasonable and just to the court; nor shall a continuance be
1660 allowed to the same party more than once, except for providential cause.

1661 24-11-25.

1662 When a rule nisi has been served as provided in Code Section 24-11-23, the court shall
1663 grant a rule absolute establishing the duplicate of the lost or destroyed paper sworn to,
1664 unless good and sufficient cause is shown why the rule absolute should not be granted.

1665 24-11-26.

1666 When the duplicate of the lost or destroyed paper is established, the clerk of the court in
1667 which it is done shall furnish the duplicate to the party who had it established, with a
1668 certified endorsement thereon of the day and term of the court when the rule absolute was
1669 granted, provided all costs of the proceeding have been paid.

1670 24-11-27.

1671 (a) If the paper which has been lost or destroyed is a note, bill, bond, or other instrument
1672 upon which a proceeding may be brought, the owner may institute a proceeding thereon
1673 as soon as the rule nisi has been issued as provided for in Code Section 24-11-23. The
1674 complaint shall set forth that the paper upon which the proceeding is based is lost or
1675 destroyed. In no case shall a judgment be entered in the proceeding until it is determined
1676 whether the application to establish the paper is granted or not. If the application is
1677 granted, then judgment shall be entered as in other proceedings.

1678 (b) In a proceeding as provided for in subsection (a) of this Code section, production of
1679 the paper upon which the proceeding is based shall not be demanded until the time for
1680 rendition of judgment in the proceeding; at that time, if the plaintiff produces a duplicate
1681 of the paper with a certified endorsement thereon by the clerk of the court in which it was
1682 established, as provided in Code Section 24-11-26, it shall be taken and considered as the
1683 original.

1684 (c) This Code section shall not apply to instruments to which Title 11, the 'Uniform
1685 Commercial Code,' is applicable.

1686 24-11-28.

1687 In all proceedings for the purpose of establishing any lost or destroyed paper other than an
1688 office paper, as defined in Code Section 24-11-20, any person whose interest will be
1689 affected by the establishment of the lost paper shall, upon motion, by order of the court, be
1690 made a party respondent in the proceeding and shall be allowed all the rights of defense
1691 against the establishment of the paper as fully as if he or she was the maker of the lost
1692 paper.

1693 24-11-29.

1694 Other than Code Section 24-11-20, this article shall not apply to lost or destroyed papers
1695 to which Title 11, the 'Uniform Commercial Code,' is applicable.

1696 CHAPTER 12

1697 ARTICLE 1

1698 24-12-1.

1699 (a) No physician licensed under Chapter 34 of Title 43 and no hospital or health care
1700 facility, including those operated by an agency or bureau of this state or other governmental
1701 unit, shall be required to release any medical information concerning a patient except to the
1702 Department of Community Health, its divisions, agents, or successors when required in the

1703 administration of public health programs pursuant to Code Section 31-12-2 and where
 1704 authorized or required by law, statute, or lawful regulation; or on written authorization or
 1705 other waiver by the patient, or by his or her parents or duly appointed guardian ad litem in
 1706 the case of a minor, or on appropriate court order or subpoena; provided, however, that any
 1707 physician, hospital, or health care facility releasing information under written authorization
 1708 or other waiver by the patient, or by his or her parents or guardian ad litem in the case of
 1709 a minor, or pursuant to law, statute, or lawful regulation, or under court order or subpoena
 1710 shall not be liable to the patient or any other person; provided, further, that the privilege
 1711 shall be waived to the extent that the patient places his or her care and treatment or the
 1712 nature and extent of his or her injuries at issue in any judicial proceeding. This Code
 1713 section shall not apply to psychiatrists or to hospitals in which the patient is being or has
 1714 been treated solely for mental illness.

1715 (b) No pharmacist licensed under Chapter 4 of Title 26 shall be required to release any
 1716 medical information concerning a patient except on written authorization or other waiver
 1717 by the patient, or by his or her parents or duly appointed guardian ad litem in the case of
 1718 a minor, or upon appropriate court order or subpoena; provided, however, that any
 1719 pharmacist releasing information under written authorization or other waiver by the patient,
 1720 or by his or her parents or duly appointed guardian ad litem in the case of a minor, or upon
 1721 appropriate court order or subpoena shall not be liable to the patient or any other person;
 1722 provided, further, that the privilege shall be waived to the extent that the patient places his
 1723 or her care and treatment or the nature and extent of his or her injuries at issue in any
 1724 judicial proceeding.

1725 24-12-2.

1726 (a) The General Assembly finds and declares that protecting the confidentiality of research
 1727 data from disclosure in judicial and administrative proceedings is essential to safeguarding
 1728 the integrity of research in this state, guaranteeing the privacy of individuals who
 1729 participate in research projects, and ensuring the continuation of research in science,
 1730 medicine, and other fields that benefits the citizens and institutions of Georgia and other
 1731 states. The protection of such research data has more than local significance, is of equal
 1732 importance to all citizens of this state, is of state-wide concern, and consequently is
 1733 properly a matter for regulation under the police power of this state.

1734 (b) As used in this Code section, the term 'confidential raw research data' means medical
 1735 information, interview responses, reports, statements, memoranda, or other data relating
 1736 to the condition, treatment, or characteristics of any person which are gathered by or
 1737 provided to a researcher:

1738 (1) In support of a research study approved by an appropriate research oversight
1739 committee of a hospital, health care facility, or educational institution; and

1740 (2) With the objective to develop, study, or report aggregate or anonymous information
1741 not intended to be used in any way in which the identity of an individual is material to the
1742 results.

1743 The term shall not include published compilations of the raw research data created by the
1744 researcher or the researcher's published summaries, findings, analyses, or conclusions
1745 related to the research study.

1746 (c) Confidential raw research data in a researcher's possession shall not be subject to
1747 subpoena, otherwise discoverable, or deemed admissible as evidence in any judicial or
1748 administrative proceeding in any court except as otherwise provided in subsection (d) of
1749 this Code section.

1750 (d) Confidential raw research data may be released, disclosed, subject to subpoena,
1751 otherwise discoverable, or deemed admissible as evidence in a judicial or administrative
1752 proceeding as follows:

1753 (1) Confidential raw research data related to a person may be disclosed to that person or
1754 to another person on such person's behalf where the authority is otherwise specifically
1755 provided by law;

1756 (2) Confidential raw research data related to a person may be disclosed to any person or
1757 legal entity designated to receive that information when that designation is made in
1758 writing by the research participant or where a designation is made in writing by a person
1759 authorized by law to act for the participant;

1760 (3) Confidential raw research data related to a person may be disclosed to any agency or
1761 department of the federal government, this state, or any political subdivision of this state
1762 if such data are required by law or regulation to be reported to such agency or
1763 department;

1764 (4) Confidential raw research data may be disclosed in any proceeding in which a party
1765 was a participant, researcher, or sponsor in the underlying research study, including, but
1766 not limited to, any judicial or administrative proceeding in which a research participant
1767 places his or her care, treatment, injuries, insurance coverage, or benefit plan coverage
1768 at issue; provided, however, that the identity of any research participant other than the
1769 party to the judicial or administrative proceeding shall not be disclosed, unless the
1770 researcher or sponsor is a defendant in such proceeding;

1771 (5) Confidential raw research data may be disclosed in any judicial or administrative
1772 proceeding in which the researcher has either volunteered to testify or has been hired to
1773 testify as an expert by one of the parties to such proceeding; and

1774 (6) In a criminal proceeding, the court shall order the production of confidential raw
 1775 research data if the data are relevant to any issue in the proceeding, impose appropriate
 1776 safeguards against unauthorized disclosure of the data, and admit confidential raw
 1777 research data into evidence if the data are material to the defense or prosecution.

1778 (e) Nothing in this Code section shall be construed to permit, require, or prohibit the
 1779 disclosure of confidential raw research data in any setting other than a judicial or
 1780 administrative proceeding that is governed by the requirements of this title.

1781 (f) Any disclosure of confidential raw research data authorized or required by this Code
 1782 section or any other law shall in no way destroy the confidential nature of that data except
 1783 for the purpose for which the authorized or required disclosure is made.

1784 ARTICLE 2

1785 24-12-10.

1786 As used in this article, the term:

1787 (1) 'Confidential or privileged' means the protection afforded by law from unauthorized
 1788 disclosure, whether the protection is afforded by law as developed and applied by the
 1789 courts, by statute or lawful regulations, or by the requirements of the Constitutions of the
 1790 State of Georgia or the United States. The term 'confidential or privileged' also includes
 1791 protection afforded by law from compulsory process or testimony.

1792 (2) 'Disclosure' means the act of transmitting or communicating medical matter to a
 1793 person who would not otherwise have access thereto.

1794 (3) 'Health care facility' means any institution or place in which health care is rendered
 1795 to persons, which health care includes, but is not limited to, medical, psychiatric, acute,
 1796 intermediate, rehabilitative, and long-term care.

1797 (4) 'Laws requiring disclosure' means laws and statutes of the State of Georgia and of the
 1798 United States and lawful regulations issued by any department or agency of the State of
 1799 Georgia or of the United States which require the review, analysis, or use of medical
 1800 matter by persons not originally having authorized access thereto. The term 'laws
 1801 requiring disclosure' also includes any authorized practice of disclosure for purposes of
 1802 evaluating claims for reimbursement for charges or expenses under any public or private
 1803 reimbursement or insurance program.

1804 (5) 'Limited consent to disclosure' means proper authorization given by or on behalf of
 1805 a person entitled to protection from disclosure of medical matter and given for a specific
 1806 purpose related to such person's health or related to such person's application for
 1807 insurance or like benefits.

1808 (6) 'Medical matter' means information respecting the medical or psychiatric condition,
 1809 including without limitation the physical and the mental condition, of a natural person or
 1810 persons, however recorded, obtained, or communicated.

1811 (7) 'Nurse' means a person authorized by license issued under Chapter 26 of Title 43 as
 1812 a registered professional nurse or licensed practical nurse to practice nursing.

1813 (8) 'Physician' means any person lawfully licensed in this state to practice medicine and
 1814 surgery pursuant to Chapter 34 of Title 43.

1815 24-12-11.

1816 The disclosure of confidential or privileged medical matter constituting all or part of a
 1817 record kept by a health care facility, a nurse, or a physician, pursuant to laws requiring
 1818 disclosure or pursuant to limited consent to disclosure, shall not serve to destroy or in any
 1819 way abridge the confidential or privileged character thereof, except for the purpose for
 1820 which such disclosure is made.

1821 24-12-12.

1822 Persons to whom confidential or privileged medical matter is disclosed in the
 1823 circumstances described in Code Section 24-12-11 shall utilize such matter only in
 1824 connection with the purpose or purposes of such disclosure and thereafter shall keep such
 1825 matter in confidence. However, nothing in this article shall prohibit the use of such matter
 1826 where otherwise authorized by law.

1827 24-12-13.

1828 Any person, corporation, authority, or other legal entity acting in good faith shall be
 1829 immune from liability for the transmission, receipt, or use of medical matter disclosed
 1830 pursuant to laws requiring disclosure or pursuant to limited consent to disclosure.

1831 24-12-14.

1832 Nothing in this article shall be construed to prevent the customary and usual audit,
 1833 discussion, and presentation of cases in connection with medical and public education.

1834 ARTICLE 3

1835 24-12-20.

1836 AIDS confidential information as defined in Code Section 31-22-9.1 and disclosed or
 1837 discovered within the patient-physician relationship shall be confidential and shall not be
 1838 disclosed except as otherwise provided in Code Section 24-12-21.

1839 24-12-21.

1840 (a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have
1841 the meaning provided for such term in Code Section 31-22-9.1.

1842 (b) Except as otherwise provided in this Code section:

1843 (1) No person or legal entity which receives AIDS confidential information pursuant to
1844 this Code section or which is responsible for recording, reporting, or maintaining AIDS
1845 confidential information shall:

1846 (A) Intentionally or knowingly disclose that information to another person or legal
1847 entity; or

1848 (B) Be compelled by subpoena, court order, or other judicial process to disclose that
1849 information to another person or legal entity; and

1850 (2) No person or legal entity which receives AIDS confidential information which that
1851 person or legal entity knows was disclosed in violation of paragraph (1) of this subsection
1852 shall:

1853 (A) Intentionally or knowingly disclose that information to another person or legal
1854 entity; or

1855 (B) Be compelled by subpoena, court order, or other judicial process to disclose that
1856 information to another person or legal entity.

1857 (c) AIDS confidential information shall be disclosed to the person identified by that
1858 information or, if that person is a minor or incompetent person, to that person's parent or
1859 legal guardian.

1860 (d) AIDS confidential information shall be disclosed to any person or legal entity
1861 designated to receive that information when that designation is made in writing by the
1862 person identified by that information or, if that person is a minor or incompetent person,
1863 by that person's parent or legal guardian.

1864 (e) AIDS confidential information shall be disclosed to any agency or department of the
1865 federal government, this state, or any political subdivision of this state if that information
1866 is authorized or required by law to be reported to that agency or department.

1867 (f) The results of an HIV test shall be disclosed to the person, or that person's designated
1868 representative, who ordered such tests of the body fluids or tissue of another person.

1869 (g) When the patient of a physician has been determined to be infected with HIV and that
1870 patient's physician reasonably believes that the spouse or sexual partner or any child of the
1871 patient, spouse, or sexual partner is a person at risk of being infected with HIV by that
1872 patient, the physician may disclose to that spouse, sexual partner, or child that the patient
1873 has been determined to be infected with HIV, after first attempting to notify the patient that
1874 such disclosure is going to be made.

1875 (h)(1) An administrator of an institution licensed as a hospital by the Department of
1876 Community Health or a physician having a patient who has been determined to be
1877 infected with HIV may disclose to the Department of Community Health:

1878 (A) The name and address of that patient;

1879 (B) That such patient has been determined to be infected with HIV; and

1880 (C) The name and address of any other person whom the disclosing physician or
1881 administrator reasonably believes to be a person at risk of being infected with HIV by
1882 that patient.

1883 (2) When mandatory and nonanonymous reporting of confirmed positive HIV tests to
1884 the Department of Community Health is determined by that department to be reasonably
1885 necessary, that department shall establish by regulation a date on and after which such
1886 reporting shall be required. On and after the date so established, each health care
1887 provider, health care facility, or any other person or legal entity which orders an HIV test
1888 for another person shall report to the Department of Community Health the name and
1889 address of any person thereby determined to be infected with HIV. No such report shall
1890 be made regarding any confirmed positive HIV test provided at any anonymous HIV test
1891 site operated by or on behalf of the Department of Community Health.

1892 (3) The Department of Community Health may disclose that a person has been reported,
1893 under paragraph (1) or (2) of this subsection, to have been determined to be infected with
1894 HIV to the board of health of the county in which that person resides or is located if
1895 reasonably necessary to protect the health and safety of that person or other persons who
1896 may have come in contact with the body fluids of the HIV infected person. The
1897 Department of Community Health or county board of health to which information is
1898 disclosed pursuant to this paragraph or paragraph (1) or (2) of this subsection:

1899 (A) May contact any person named in such disclosure as having been determined to
1900 be an HIV infected person for the purpose of counseling that person and requesting
1901 therefrom the name of any other person who may be a person at risk of being infected
1902 with HIV by that HIV infected person;

1903 (B) May contact any other person reasonably believed to be a person at risk of being
1904 infected with HIV by that HIV infected person for the purposes of disclosing that such
1905 infected person has been determined to be infected with HIV and counseling such
1906 person to submit to an HIV test; and

1907 (C) Shall contact and provide counseling to the spouse of any HIV infected person
1908 whose name is thus disclosed if both persons are reasonably likely to have engaged in
1909 sexual intercourse or any other act determined by the Department of Community Health
1910 likely to have resulted in the transmission of HIV between such persons within the

1911 preceding seven years and if that spouse may be located and contacted without undue
 1912 difficulty.

1913 (i) Any health care provider authorized to order an HIV test may disclose AIDS
 1914 confidential information regarding a patient thereof if that disclosure is made to a health
 1915 care provider or health care facility which has provided, is providing, or will provide any
 1916 health care service to that patient and as a result of such provision of service that health
 1917 care provider or facility:

1918 (1) Has personnel or patients who may be persons at risk of being infected with HIV by
 1919 that patient, if that patient is an HIV infected person and such disclosure is reasonably
 1920 necessary to protect any such personnel or patients from that risk; or

1921 (2) Has a legitimate need for that information in order to provide that health care service
 1922 to that patient.

1923 (j) A health care provider or any other person or legal entity authorized but not required
 1924 to disclose AIDS confidential information pursuant to this Code section shall have no duty
 1925 to make such disclosure and shall not be liable to the patient or any other person or legal
 1926 entity for failing to make such disclosure. A health care provider or any other person or
 1927 legal entity which discloses information as authorized or required by this Code section or
 1928 as authorized or required by law or rules or regulations made pursuant thereto shall have
 1929 no civil or criminal liability therefor.

1930 (k) When any person or legal entity is authorized or required by this Code section or any
 1931 other law to disclose AIDS confidential information to a person at risk of being infected
 1932 with HIV and that person at risk is a minor or incompetent person, such disclosure may be
 1933 made to any parent or legal guardian of the minor or incompetent person, to the minor or
 1934 incompetent person, or to both the minor or incompetent person and any parent or legal
 1935 guardian thereof.

1936 (l) When an institutional care facility is the site at which a person is at risk of being
 1937 infected with HIV and as a result of that risk a disclosure of AIDS confidential information
 1938 to any person at risk at that site is authorized or required under this Code section or any
 1939 other law, such disclosure may be made to the person at risk or to that institutional care
 1940 facility's chief administrative or executive officer, or such officer's designee, in which case
 1941 that officer or designee shall be authorized to make such disclosure to the person at risk.

1942 (m) When a disclosure of AIDS confidential information is authorized or required by this
 1943 Code section to be made to a physician, health care provider, or legal entity, that disclosure
 1944 may be made to employees of that physician, health care provider, or legal entity who have
 1945 been designated thereby to receive such information on behalf thereof. Those designated
 1946 employees may thereafter disclose to and provide for the disclosure of that information
 1947 among such other employees of that physician, health care provider, or legal entity, but

1948 such disclosures among those employees shall only be authorized when reasonably
 1949 necessary in the ordinary course of business to carry out the purposes for which that
 1950 disclosure is authorized or required to be made to that physician, health care provider, or
 1951 legal entity.

1952 (n) Any disclosure of AIDS confidential information authorized or required by this Code
 1953 section or any other law and any unauthorized disclosure of such information shall in no
 1954 way destroy the confidential nature of that information except for the purpose for which
 1955 the authorized or required disclosure is made.

1956 (o) Any person or legal entity which violates subsection (b) of this Code section shall be
 1957 guilty of a misdemeanor.

1958 (p) Nothing in this Code section or any other law shall be construed to authorize the
 1959 disclosure of AIDS confidential information if that disclosure is prohibited by federal law,
 1960 or regulations promulgated thereunder, nor shall anything in this Code section or any other
 1961 law be construed to prohibit the disclosure of information which would be AIDS
 1962 confidential information except that such information does not permit the identification of
 1963 any person.

1964 (q) A public safety agency or prosecuting attorney may obtain the results from an HIV test
 1965 to which the person named in the request has submitted under Code Section 15-11-66.1,
 1966 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be contained in a
 1967 sealed record.

1968 (r) Any person or legal entity required by an order of a court to disclose AIDS confidential
 1969 information in the custody or control of such person or legal entity shall disclose that
 1970 information as required by that order.

1971 (s) AIDS confidential information shall be disclosed as medical information pursuant to
 1972 Code Section 24-12-1 or pursuant to any other law which authorizes or requires the
 1973 disclosure of medical information if:

1974 (1) The person identified by that information:

1975 (A) Has consented in writing to that disclosure; or

1976 (B) Has been notified of the request for disclosure of that information at least ten days
 1977 prior to the time the disclosure is to be made and does not object to such disclosure
 1978 prior to the time specified for that disclosure in that notice; or

1979 (2) A superior court in an in camera hearing finds by clear and convincing evidence a
 1980 compelling need for the information which cannot be accommodated by other means. In
 1981 assessing compelling need, the court shall weigh the public health, safety, or welfare
 1982 needs or any other public or private need for the disclosure against the privacy interest
 1983 of the person identified by the information and the public interest which may be disserved
 1984 by disclosures which may deter voluntary HIV tests. If the court determines that

1985 disclosure of that information is authorized under this paragraph, the court shall order that
 1986 disclosure and impose appropriate safeguards against any unauthorized disclosure. The
 1987 records of that hearing otherwise shall be under seal.

1988 (t)(1) A superior court of this state may order a person or legal entity to disclose AIDS
 1989 confidential information in its custody or control to:

1990 (A) A prosecutor in connection with a prosecution for the alleged commission of
 1991 reckless conduct under subsection (c) of Code Section 16-5-60;

1992 (B) Any party in a civil proceeding; or

1993 (C) A public safety agency or the Department of Community Health if that agency or
 1994 department has an employee thereof who has, in the course of that employment, come
 1995 in contact with the body fluids of the person identified by the AIDS confidential
 1996 information sought in such a manner reasonably likely to cause that employee to
 1997 become an HIV infected person and provided the disclosure is necessary for the health
 1998 and safety of that employee,

1999 and, for purposes of this subsection, the term 'petitioner for disclosure' means any person
 2000 or legal entity specified in subparagraph (A), (B), or (C) of this paragraph.

2001 (2) An order may be issued against a person or legal entity responsible for recording,
 2002 reporting, or maintaining AIDS confidential information to compel the disclosure of that
 2003 information if the petitioner for disclosure demonstrates by clear and convincing evidence
 2004 a compelling need for the information which cannot be accommodated by other means.
 2005 In assessing compelling need, the court shall weigh the public health, safety, or welfare
 2006 needs or any other public or private need for the disclosure against the privacy interest
 2007 of the person identified by the information and the public interest which may be disserved
 2008 by disclosures which may deter voluntary HIV tests.

2009 (3) A petition seeking disclosure of AIDS confidential information under this subsection
 2010 shall substitute a pseudonym for the true name of the person concerning whom the
 2011 information is sought. The disclosure to the parties of that person's true name shall be
 2012 communicated confidentially, in documents not filed with the court.

2013 (4) Before granting any order under this subsection, the court shall provide the person
 2014 concerning whom the information is sought with notice and a reasonable opportunity to
 2015 participate in the proceedings if that person is not already a party.

2016 (5) Court proceedings as to disclosure of AIDS confidential information under this
 2017 subsection shall be conducted in camera unless the person concerning whom the
 2018 information is sought agrees to a hearing in open court.

2019 (6) Upon the issuance of an order that a person or legal entity be required to disclose
 2020 AIDS confidential information regarding a person named in that order, that person or
 2021 entity so ordered shall disclose to the ordering court any such information which is in the

2022 control or custody of that person or entity and which relates to the person named in the
 2023 order for the court to make an in camera inspection thereof. If the court determines from
 2024 that inspection that the person named in the order is an HIV infected person, the court
 2025 shall disclose to the petitioner for disclosure that determination and shall impose
 2026 appropriate safeguards against unauthorized disclosure which shall specify the persons
 2027 who may have access to the information, the purposes for which the information shall be
 2028 used, and appropriate prohibitions on future disclosure.

2029 (7) The record of the proceedings under this subsection shall be sealed by the court.

2030 (8) An order may not be issued under this subsection against the Department of
 2031 Community Health, any county board of health, or any anonymous HIV test site operated
 2032 by or on behalf of that department.

2033 (u) A health care provider, health care facility, or other person or legal entity who, in
 2034 violation of this Code section, unintentionally discloses AIDS confidential information,
 2035 notwithstanding the maintenance of procedures thereby which are reasonably adopted to
 2036 avoid risk of such disclosure, shall not be civilly or criminally liable, unless such disclosure
 2037 was due to gross negligence or wanton and willful misconduct.

2038 (v) AIDS confidential information may be disclosed when that disclosure is otherwise
 2039 authorized or required by Code Section 42-1-6, if AIDS or HIV infection is the
 2040 communicable disease at issue, or when that disclosure is otherwise authorized or required
 2041 by any law which specifically refers to 'AIDS confidential information,' 'HIV test results,'
 2042 or any similar language indicating a legislative intent to disclose information specifically
 2043 relating to AIDS or HIV.

2044 (w) A health care provider who has received AIDS confidential information regarding a
 2045 patient from the patient's health care provider directly or indirectly under the provisions of
 2046 subsection (i) of this Code section may disclose that information to a health care provider
 2047 which has provided, is providing, or will provide any health care service to that patient and
 2048 as a result of that provision of service that health care provider:

2049 (1) Has personnel or patients who may be persons at risk of being infected with HIV by
 2050 that patient, if that patient is an HIV infected person and such disclosure is reasonably
 2051 necessary to protect any such personnel or patients from that risk; or

2052 (2) Has a legitimate need for that information in order to provide that health care service
 2053 to that patient.

2054 (x) Neither the Department of Community Health nor any county board of health shall
 2055 disclose AIDS confidential information contained in its records unless such disclosure is
 2056 authorized or required by this Code section or any other law, except that such information
 2057 in those records shall not be a public record and shall not be subject to disclosure through
 2058 subpoena, court order, or other judicial process.

2059 (y) The protection against disclosure provided by Code Section 24-12-20 shall be waived
2060 and AIDS confidential information may be disclosed to the extent that the person identified
2061 by such information, his or her heirs, successors, assigns, or a beneficiary of such person,
2062 including, but not limited to, an executor, administrator, or personal representative of such
2063 person's estate:

2064 (1) Files a claim or claims other entitlements under any insurance policy or benefit plan
2065 or is involved in any civil proceeding regarding such claim;

2066 (2) Places such person's care and treatment, the nature and extent of his or her injuries,
2067 the extent of his or her damages, his or her medical condition, or the reasons for his or her
2068 death at issue in any judicial proceeding; or

2069 (3) Is involved in a dispute regarding coverage under any insurance policy or benefit
2070 plan.

2071 (z) AIDS confidential information may be collected, used, and disclosed by an insurer in
2072 accordance with the provisions of Chapter 39 of Title 33.

2073 (aa) In connection with any judicial proceeding in which AIDS confidential information
2074 is disclosed as authorized or required by this Code section, the party to whom that
2075 information is thereby disclosed may subpoena any person to authenticate such AIDS
2076 confidential information, establish a chain of custody relating thereto, or otherwise testify
2077 regarding that information, including, but not limited to, testifying regarding any
2078 notifications to the patient regarding results of an HIV test. The provisions of this
2079 subsection shall apply as to records, personnel, or both of the Department of Community
2080 Health or a county board of health notwithstanding Code Section 50-18-72, but only as to
2081 test results obtained by a prosecutor under subsection (q) of this Code section and to be
2082 used thereby in a prosecution for reckless conduct under subsection (c) of Code Section
2083 16-5-60.

2084 (bb) AIDS confidential information may be disclosed as a part of any proceeding or
2085 procedure authorized or required pursuant to Chapter 3, 4, or 7 of Title 37, regarding a
2086 person who is alleged to be or who is mentally ill, developmentally disabled, or alcoholic
2087 or drug dependent, or as a part of any proceeding or procedure authorized or required
2088 pursuant to Title 29, regarding the guardianship of a person or that person's estate, as
2089 follows:

2090 (1) Any person who files or transmits a petition or other document which discloses AIDS
2091 confidential information in connection with any such proceeding or procedure shall
2092 provide a cover page which contains only the type of proceeding or procedure, the court
2093 in which the proceeding or procedure is or will be pending, and the words
2094 'CONFIDENTIAL INFORMATION' without in any way otherwise disclosing thereon

2095 the name of any individual or that such petition or other document specifically contains
2096 AIDS confidential information;

2097 (2) AIDS confidential information shall only be disclosed pursuant to this subsection
2098 after disclosure to and with the written consent of the person identified by that
2099 information, or that person's parent or guardian if that person is a minor or has previously
2100 been adjudicated as being incompetent, or by order of court obtained in accordance with
2101 subparagraph (C) of paragraph (3) of this subsection;

2102 (3) If any person files or transmits a petition or other document in connection with any
2103 such proceeding or procedure which discloses AIDS confidential information without
2104 obtaining consent as provided in paragraph (2) of this subsection, the court receiving such
2105 information shall either obtain written consent as set forth in that paragraph (2) for any
2106 further use or disclosure of such information or:

2107 (A) Return such petition or other document to the person who filed or transmitted
2108 same, with directions against further filing or transmittal of such information in
2109 connection with such proceeding or procedure except in compliance with this
2110 subsection;

2111 (B) Delete or expunge all references to such AIDS confidential information from the
2112 particular petition or other document; or

2113 (C)(i) If the court determines there is a compelling need for such information in
2114 connection with the particular proceeding or procedure, petition a superior court of
2115 competent jurisdiction for permission to obtain or disclose that information. If the
2116 person identified by the information is not yet represented by an attorney in the
2117 proceeding or procedure in connection with which the information is sought, the
2118 petitioning court shall appoint an attorney for such person. The petitioning court shall
2119 have both that person and that person's attorney personally served with notice of the
2120 petition and time and place of the superior court hearing thereon. Such hearing shall
2121 not be held sooner than 72 hours after service, unless the information is to be used in
2122 connection with an emergency guardianship proceeding under Code Section 29-4-14,
2123 in which event the hearing shall not be held sooner than 48 hours after service.

2124 (ii) The superior court in which a petition is filed pursuant to division (i) of this
2125 subparagraph shall hold an in camera hearing on such petition. The purpose of the
2126 hearing shall be to determine whether there is clear and convincing evidence of a
2127 compelling need for the AIDS confidential information sought in connection with the
2128 particular proceeding or procedure which cannot be accommodated by other means.
2129 In assessing compelling need, the superior court shall weigh the public health, safety,
2130 or welfare needs or any other public or private need for the disclosure against the
2131 privacy interest of the person identified by the information and the public interest

2132 which may be disserved by disclosures which may deter voluntary HIV tests. If the
 2133 court determines that disclosure of that information is authorized under this
 2134 subparagraph, the court shall order that disclosure and impose appropriate safeguards
 2135 against any unauthorized disclosure. The records of that hearing otherwise shall be
 2136 under seal; and

2137 (4) The court having jurisdiction over such proceeding or procedure, when it becomes
 2138 apparent that AIDS confidential information will likely be or has been disclosed in
 2139 connection with such proceeding or procedure, shall take such measures as the court
 2140 determines appropriate to preserve the confidentiality of the disclosed information to the
 2141 maximum extent possible. Such measures shall include, without being limited to, closing
 2142 the proceeding or procedure to the public and sealing all or any part of the records of the
 2143 proceeding or procedure containing AIDS confidential information. The records of any
 2144 appeals taken from any such proceeding or procedure shall also be sealed. Furthermore,
 2145 the court may consult with and obtain the advice of medical experts or other counsel or
 2146 advisers as to the relevance and materiality of such information in such proceedings or
 2147 procedures, provided that the identity of the person identified by such information is not
 2148 thereby revealed.

2149 ARTICLE 4

2150 24-12-30.

2151 (a) Circulation and similar records of a library which identify the user of library materials
 2152 shall not be public records but shall be confidential and shall not be disclosed except:

2153 (1) To members of the library staff in the ordinary course of business;

2154 (2) Upon written consent of the user of the library materials or the user's parents or
 2155 guardian if the user is a minor or ward; or

2156 (3) Upon appropriate court order or subpoena.

2157 (b) Any disclosure authorized by subsection (a) of this Code section or any unauthorized
 2158 disclosure of materials made confidential by subsection (a) of this Code section shall not
 2159 in any way destroy the confidential nature of that material, except for the purpose for which
 2160 an authorized disclosure is made. A person disclosing material as authorized by subsection
 2161 (a) of this Code section shall not be liable therefor.

2162 24-12-31.

2163 No veterinarian licensed under Chapter 50 of Title 43 shall be required to disclose any
 2164 information concerning the veterinarian's care of an animal except on written authorization
 2165 or other waiver by the veterinarian's client or on appropriate court order or subpoena. Any

2166 veterinarian releasing information under written authorization or other waiver by the client
 2167 or under court order or subpoena shall not be liable to the client or any other person. The
 2168 confidentiality provided by this Code section shall be waived to the extent that the
 2169 veterinarian's client places the veterinarian's care and treatment of the animal or the nature
 2170 and extent of injuries to the animal at issue in any judicial proceeding. As used in this
 2171 Code section, the term 'client' means the owner of the animal; or if the owner of the animal
 2172 is unknown, client means the person who presents the animal to the veterinarian for care
 2173 and treatment.

2174 CHAPTER 13

2175 ARTICLE 1

2176 24-13-1.

2177 A witness shall not be arrested on any civil process while attending any court to which he
 2178 or she is subpoenaed or otherwise required to attend as a witness or while going to or
 2179 returning from such court. An officer who holds such witness imprisoned after seeing his
 2180 or her subpoena or being satisfied of the fact that such person was a witness shall be liable
 2181 for false imprisonment.

2182 24-13-2.

2183 A witness in making a claim or proof of a claim for witness fees for attendance shall
 2184 indicate the date on which he or she attended and, in the event of a continuance, shall not
 2185 claim or receive witness fees for any day after the date to which the docket shows the
 2186 proceeding was continued nor for any day before the continuance was granted on which
 2187 he or she did not attend.

2188 24-13-3.

2189 (a) A witness shall not receive any witness fees for attendance on a subpoena if such
 2190 witness is absent from the proceeding, or if the proceeding is continued at any time due to
 2191 his or her absence, where such absence did not arise from providential cause.

2192 (b) No witness shall receive witness fees from both parties in the same proceeding; the
 2193 fees of a witness for both parties shall be apportioned equally between the parties unless
 2194 the costs are all taxed against one party.

2195 24-13-4.

2196 A witness who claims more than is due to such witness shall forfeit all witness fees and
2197 shall pay to the injured party, in addition thereto, four times the amount so unjustly
2198 claimed.

2199 24-13-5.

2200 When any person is served with a subpoena for the production of evidence or a notice to
2201 produce, seeking books in his or her possession to be used as testimony on the trial of any
2202 cause, if the person makes oath that he or she cannot produce the books required without
2203 suffering a material injury in his or her business and also makes or causes to be made out
2204 a full transcript from the books of all the accounts and dealings with the opposite party, has
2205 the transcript examined and sworn to by an impartial witness, and produces the same in
2206 court, the witness shall be deemed to have complied with the notice to produce or subpoena
2207 for the production of evidence.

2208 24-13-6.

2209 When the transcript provided for in Code Section 24-13-5 is produced in court, if the
2210 adverse party is dissatisfied therewith and swears that he or she believes that the books
2211 contain entries material to the adverse party which do not appear in the transcript, the court
2212 shall grant him or her a commission directed to certain persons named by the parties and
2213 approved by the court. The commission shall cause the person with possession of the
2214 books to produce the books required with the person swearing that the books produced are
2215 all that he or she has or had that answer to the description in the subpoena or notice to
2216 produce. The commission shall examine the books and transmit to the court a full and fair
2217 statement of the accounts and entries between the parties under their hand. When received
2218 by the court, the statement of the commission shall be deemed a compliance with the notice
2219 to produce or subpoena for the production of evidence.

2220 24-13-7.

2221 Parties interested and participating in the trial of all cases tried in the courts are authorized
2222 and empowered, on the order of the court trying the case, to withdraw from the court and
2223 record of the case all original deeds, maps, blueprints, notes, papers, and documents
2224 belonging to the parties and which are introduced in evidence on the trial, on substituting
2225 therefor, when required by the court, duplicates thereof, verified as such by the parties or
2226 their agents, representatives, or attorneys. However, if any such deeds, maps, blueprints,
2227 notes, papers, or documents shall be attacked by any party to the case as forgeries, or as not
2228 being genuine originals, it shall be in the discretion of the court to require the original

2229 deeds, maps, blueprints, notes, papers, or documents so attacked to remain on file in the
2230 court as a part of the record in the case.

2231 ARTICLE 2

2232 24-13-20.

2233 This article shall apply to all civil proceedings and, insofar as consistent with the
2234 Constitution, to all criminal proceedings.

2235 24-13-21.

2236 (a) As used in this Code section, the term 'subpoena' includes a witness subpoena and a
2237 subpoena for the production of evidence.

2238 (b) A subpoena shall state the name of the court, the name of the clerk, and the title of the
2239 proceeding and shall command each person to whom it is directed to attend and give
2240 testimony or produce evidence at a time and place specified by the subpoena.

2241 (c) The clerk of court shall make subpoenas in blank available on demand by electronic
2242 or other means to parties or their counsel or to the grand jury.

2243 (d) An attorney who is counsel of record in a proceeding may issue and sign a subpoena
2244 obtained by electronic or other means from the clerk of court as an officer of a court for
2245 any deposition, hearing, or trial held in conjunction with such proceeding.

2246 (e) A district attorney may issue, and upon the request of the grand jury shall issue, a
2247 subpoena in grand jury proceedings.

2248 (f) A subpoena shall be completed prior to being served.

2249 (g) Subpoenas are enforceable as provided in Code Section 24-13-26.

2250 (h) If an individual misuses a subpoena, he or she shall be subject to punishment for
2251 contempt of court and shall be punished by a fine of not more than \$300.00 or not more
2252 than 20 days imprisonment, or both.

2253 24-13-22.

2254 At the request of any party, subpoenas for attendance at a hearing or trial shall be issued
2255 under the authority of the clerk of the court in which the hearing or trial is held. A
2256 subpoena requiring the attendance of a witness at a hearing or trial may be served at any
2257 place within this state.

2258 24-13-23.

2259 (a) A subpoena may also command the person to whom it is directed to produce the
2260 evidence designated therein.

2261 (b) The court, upon written motion made promptly and in any event at or before the time
2262 specified in the subpoena for compliance therewith, may:

2263 (1) Quash or modify the subpoena if it is unreasonable and oppressive; or

2264 (2) Condition denial of the motion upon the advancement by the person in whose behalf
2265 the subpoena is issued of the reasonable cost of producing the evidence.

2266 24-13-24.

2267 A subpoena may be served by any sheriff, by his or her deputy, or by any other person not
2268 less than 18 years of age. Proof may be shown by return or certificate endorsed on a copy
2269 of the subpoena. Subpoenas may also be served by registered or certified mail or statutory
2270 overnight delivery, and the return receipt shall constitute prima-facie proof of service.
2271 Service upon a party may be made by serving his or her counsel of record.

2272 24-13-25.

2273 Except as provided in Code Section 24-13-28, the witness fee shall be \$25.00 per diem, and
2274 execution shall be issued by the clerk upon affidavit of the witness to enforce payment
2275 thereof. The payment of witness fees shall not be demanded as a condition precedent to
2276 attendance; but, when a witness resides outside the county where the testimony is to be
2277 given, service of the subpoena, to be valid, shall be accompanied by tender of the witness
2278 fee for one day's attendance plus mileage of 45¢ per mile for traveling expenses for going
2279 from and returning to his or her place of residence by the nearest practical route. Tender
2280 of witness fees and mileage may be made by United States currency, postal money order,
2281 cashier's check, certified check, or the check of an attorney or law firm. When the
2282 subpoena is issued on behalf of this state, or an officer, agency, or political subdivision
2283 thereof, or an accused in a criminal proceeding, witness fees and mileage need not be
2284 tendered.

2285 24-13-26.

2286 (a) Subpoenas may be enforced by attachment for contempt and by a fine of not more than
2287 \$300.00 or not more than 20 days imprisonment, or both. In all proceedings under this
2288 Code section, the court shall consider whether under the circumstances of each proceeding
2289 the subpoena was served within a reasonable time, but in any event not less than 24 hours
2290 prior to the time that appearance thereunder was required.

2291 (b) The court may also in appropriate proceedings grant continuance of the proceeding.
2292 Where subpoenas were issued in blank, no continuance shall be granted because of failure
2293 to respond thereto when the party obtaining such subpoenas fails to present to the clerk the

2294 name and address of the witness so subpoenaed at least six hours before appearance is
 2295 required.

2296 (c) When evidence is unsuccessfully sought, secondary evidence thereof shall be
 2297 admissible.

2298 24-13-27.

2299 Where a party desires to compel production of evidence in the possession, custody, or
 2300 control of another party, in lieu of serving a subpoena under this article, the party desiring
 2301 the production may serve a notice to produce upon counsel for the other party. Service
 2302 may be perfected in accordance with Code Section 24-13-24, but no witness fees or
 2303 mileage shall be allowed therefor. Such notices may be enforced in the manner prescribed
 2304 by Code Section 24-13-26, and Code Section 24-13-23 shall also apply to such notices.
 2305 The notice shall be in writing, signed by the party seeking production of the evidence, or
 2306 the party's attorney, and shall be directed to the opposite party or his or her attorney.

2307 24-13-28.

2308 (a) As used in this Code section, the term:

2309 (1) 'Director' means the appropriate chief of police, sheriff, director of public safety of
 2310 a college or university, local fire chief, director of the Georgia Bureau of Investigation,
 2311 the commanding officer of the Georgia State Patrol, the commissioner of natural
 2312 resources, the superintendent of a correctional institution, or the state fire marshal.

2313 (2) 'Law enforcement officer' means any member of a municipal or county police force,
 2314 any deputy sheriff, any campus policeman as defined in Code Section 20-8-1, any
 2315 member of a local fire department, any member of the Georgia State Patrol or Georgia
 2316 Bureau of Investigation, any correctional officer, any person employed by the
 2317 Department of Natural Resources as a law enforcement officer, or any arson investigator
 2318 of the state fire marshal's office.

2319 (3) 'Regular duty hours' means the daily shift of duty to which a law enforcement officer
 2320 is assigned and shall not include paid or unpaid vacation, paid or unpaid sick leave, paid
 2321 or unpaid holiday leave, or any other paid or unpaid leave status established pursuant to
 2322 the personnel regulations or scheduling practices of the employing agency.

2323 (b) Any law enforcement officer who shall be required by subpoena to attend any superior
 2324 court, other courts having jurisdiction to enforce the penal laws of this state, municipal
 2325 court having jurisdiction to enforce the penal laws of this state as provided by Code Section
 2326 40-13-21, juvenile court, grand jury, hearing or inquest held or called by a coroner, or
 2327 magistrate court involving any criminal matter, as a witness on behalf of the state during
 2328 any hours except the regular duty hours to which the officer is assigned, shall be paid for

2329 such attendance at a fixed rate to be established by the governing authority, but not less
2330 than \$25.00 per diem. The claim for the witness fees shall be endorsed on the subpoena
2331 showing the dates of attendance and stating that attendance was required during the hours
2332 other than the regular duty hours to which the claimant was assigned. The claimant shall
2333 verify this statement. The dates of attendance shall be certified by the judge or the
2334 prosecuting attorney of the court attended. The director or his or her designee shall certify
2335 that the claimant has not received any overtime pay for his or her attendance and that his
2336 or her attendance was required during hours other than regular duty hours. The amount due
2337 shall be paid by the governing body authorized to dispense public funds for the operation
2338 of the court. However, no such law enforcement officer shall claim or receive more than
2339 one witness fee per day for attendance in any court or before the grand jury regardless of
2340 the number of subpoenas which the law enforcement officer may have received requiring
2341 such officer to appear in such court or before the grand jury on any one day.

2342 (c)(1) Except as provided in paragraph (2) of this subsection, any law enforcement
2343 officer who shall be required by subpoena to attend any court of this state with respect
2344 to any civil proceeding, as a witness concerning any matter relative to the law
2345 enforcement duties of such law enforcement officer during any hours except the regular
2346 duty hours to which the law enforcement officer is assigned, shall be paid for such
2347 attendance at a fixed rate to be established by the governing authority, but not less than
2348 \$25.00 per diem. Any such law enforcement officer shall also be entitled to the mileage
2349 allowance provided in Code Section 24-13-25 when such law enforcement officer resides
2350 outside the county where the testimony is to be given. The claim for the witness fees
2351 shall be endorsed on the subpoena showing the dates of attendance and stating that
2352 attendance was required during the hours other than the regular duty hours to which the
2353 claimant was assigned. The claimant shall verify such statement. The dates of
2354 attendance shall be certified by the party obtaining the subpoena. The director or his or
2355 her designee shall certify that the claimant has not received any overtime pay for the law
2356 enforcement officer's attendance and that such law enforcement officer's attendance was
2357 required during hours other than regular duty hours.

2358 (2) Any law enforcement officer covered by paragraph (1) of this subsection who is
2359 required by subpoena to attend any court with respect to any civil proceeding, as a
2360 witness concerning any matter which is not related to the duties of such law enforcement
2361 officer, shall be compensated as provided in Code Section 24-13-25.

2362 (d) The fee specified by subsections (b) and (c) of this Code section shall not be paid if the
2363 law enforcement officer receives any overtime pay for time spent attending such court
2364 pursuant to the subpoena.

2365 24-13-29.

2366 No member of the General Assembly of Georgia shall be compelled to attend and give
 2367 testimony at any hearing or trial or to produce evidence while the General Assembly is in
 2368 regular or extraordinary session.

2369 ARTICLE 3

2370 24-13-60.

2371 (a) When a prisoner confined in any state prison, county correctional institution, or other
 2372 penal institution under the jurisdiction of the Board of Corrections, other than a prisoner
 2373 under a death sentence, is needed as a witness in any judicial proceeding in any court of
 2374 record in this state or when it is desired that such person stand trial on an indictment or
 2375 accusation charging the prisoner with commission of a felony or misdemeanor, the judge
 2376 of the court wherein the proceeding is pending shall be authorized to and shall issue an ex
 2377 parte order, directed to the commissioner of corrections, requiring the prisoner's delivery
 2378 to the sheriff of the county where the prisoner is desired as a witness or accused. The
 2379 sheriff or his or her deputies shall take custody of the prisoner on the date named in the
 2380 order, safely keep the prisoner pending the proceeding, and return him or her to the original
 2381 place of detention after the prisoner's discharge by the trial judge.

2382 (b) If the prisoner was desired as a witness by this state in a criminal proceeding or if the
 2383 prisoner's release to the sheriff was for the purpose of standing trial on criminal charges,
 2384 the county wherein the proceeding was pending shall pay all expenses of transportation and
 2385 keeping, including per diem and mileage of the sheriff, jail fees, and any other proper
 2386 expense approved by the trial judge.

2387 (c) If the prisoner was desired as a witness by the accused in a criminal proceeding or by
 2388 either party to a civil proceeding, the costs and expenses referred to in subsection (b) of this
 2389 Code section shall be borne by the party requesting the prisoner as a witness. The court
 2390 shall require a deposit of money sufficient to defray same, except where the judge, after
 2391 examining into the matter, determines that the prisoner's presence is required by the
 2392 interests of justice and that the party requesting it is financially unable to make the deposit,
 2393 in which case the expenses shall be taxed as costs of court.

2394 (d) If a prisoner under a death sentence is needed as a witness for either the prosecution
 2395 or the defense in any felony case, the requesting party may interview the proposed witness.
 2396 Following such interview, the requesting party may move for a writ of habeas corpus ad
 2397 testificandum. Such motion shall be accompanied by a proffer of the testimony of the
 2398 proposed witness. The requesting party shall make such motion and proffer as soon as
 2399 possible but shall not make such motion later than 20 days prior to the date of the trial.

2400 Nothing in this Code section shall limit the right of a party from presenting a material
 2401 witness at a hearing or trial and to have compulsory process for that purpose.

2402 24-13-61.

2403 Any judge of the superior court may issue an order to any officer having a lawfully
 2404 imprisoned person in his or her custody, requiring the production of such person before the
 2405 court for the purpose of giving evidence in any criminal cause pending therein, without any
 2406 formal application or writ of habeas corpus ad testificandum for that purpose.

2407 24-13-62.

2408 The writ of habeas corpus ad testificandum may be issued by the superior court to cause
 2409 the production in court of any witness under legal imprisonment.

2410 ARTICLE 4

2411 24-13-90.

2412 This article shall be known and may be cited as 'The Uniform Act to Secure the Attendance
 2413 of Witnesses from Without the State.'

2414 24-13-91.

2415 As used in this article, the term:

2416 (1) 'Penal institution' means a jail, prison, penitentiary, house of correction, or other
 2417 place of penal detention.

2418 (2) 'State' means any state or territory of the United States and the District of Columbia.

2419 (3) 'Summons' means a subpoena, order, or other notice requiring the appearance of a
 2420 witness.

2421 (4) 'Witness' means a person whose testimony is desired in any proceeding or
 2422 investigation by a grand jury or in a criminal prosecution or proceeding held by the
 2423 prosecution or the defense, including a person who is confined in a penal institution in
 2424 any state.

2425 24-13-92.

2426 (a) If a judge of a court of record in any state which by its laws has made provision for
 2427 commanding persons within that state to attend and testify in this state certifies under the
 2428 seal of such court that there is a criminal prosecution pending in such court or that a grand
 2429 jury investigation has commenced or is about to commence, that a person within this state
 2430 is a material witness in such prosecution or grand jury investigation, and that the witness's

2431 presence will be required for a specified number of days, upon presentation of such
2432 certificate to any judge of a court of record in the county in which the person is found, such
2433 judge shall fix a time and place for a hearing and shall make an order directing the witness
2434 to appear at a time and place certain for the hearing. The witness shall at all times be
2435 entitled to counsel.

2436 (b) If at a hearing the judge determines that the witness is material and necessary, that it
2437 will not cause undue hardship to the witness to be compelled to attend and testify in the
2438 prosecution or a grand jury investigation in the other state, and the laws of the state in
2439 which the prosecution is pending or grand jury investigation has commenced or is about
2440 to commence will give to such witness protection from arrest and the service of civil and
2441 criminal process, the judge shall issue a summons, with a copy of the certificate attached,
2442 directing the witness to attend and testify in the court where the prosecution is pending or
2443 where a grand jury investigation has commenced or is about to commence at a time and
2444 place specified in the summons. In any such hearing, the certificate shall be prima-facie
2445 evidence of all the facts stated therein.

2446 (c) If such certificate recommends that the witness be taken into immediate custody and
2447 delivered to an officer of the requesting state to assure the witness's attendance in the
2448 requesting state, such judge may, in lieu of notification of the hearing, direct that the
2449 witness be forthwith brought before him or her for the hearing; and the judge at the hearing
2450 being satisfied of the desirability of such custody and delivery, for which determination the
2451 certificate shall be prima-facie proof of such desirability, may, in lieu of issuing subpoena
2452 or summons, order that the witness be forthwith taken into custody and delivered to an
2453 officer of the requesting state.

2454 (d) If the witness, who is summoned as above provided, after being paid or tendered by
2455 some properly authorized person the sum of 45¢ a mile for each mile by the ordinarily
2456 traveled route to and from the court where the prosecution is pending and \$25.00 for each
2457 day that the witness is required to travel and attend as a witness, fails without good cause
2458 to attend and testify as directed in the summons, the witness shall be punished in the
2459 manner provided for in Code Section 24-13-26.

2460 24-13-93.

2461 (a) A judge of a state court of record in another state which by its laws has made provision
2462 for commanding persons confined in penal institutions within that state to attend and testify
2463 in this state may certify that there is a criminal proceeding or investigation by a grand jury
2464 or a criminal proceeding pending in the court, that a person who is confined in a penal
2465 institution in this state is a material witness in the proceeding or investigation, and that the
2466 witness's presence will be required during a specified time. Upon presentation of the

2467 certificate to any judge having jurisdiction over the person confined and upon notice to the
2468 Attorney General, the judge in this state shall fix a time and place for a hearing and shall
2469 make an order directed to the person having custody of the prisoner requiring that the
2470 prisoner be produced before him or her at the hearing.

2471 (b) If at the hearing the judge determines that the witness is material and necessary, that
2472 the witness attending and testifying are not adverse to the interest of this state or to the
2473 health and legal rights of the witness, that the laws of the state in which the witness is
2474 required to testify will give the witness protection from arrest and the service of civil and
2475 criminal process because of any act committed prior to the witness's arrival in the state
2476 under the order, and that as a practical matter the possibility is negligible that the witness
2477 may be subject to arrest or to the service of civil or criminal process in any state through
2478 which the witness will be required to pass, the judge shall issue an order, with a copy of the
2479 certificate attached, directing the witness to attend and testify, directing the person having
2480 custody of the witness to produce the witness in the court where the criminal proceeding
2481 is pending or where the grand jury investigation is pending at a time and place specified
2482 in the order, and prescribing such conditions as the judge shall determine. The judge, in
2483 lieu of directing the person having custody of the witness to produce the witness in the
2484 requesting jurisdiction's court, may direct and require in the court's order that the requesting
2485 jurisdiction shall come to the Georgia penal institution in which the witness is confined to
2486 accept custody of the witness for physical transfer to the requesting jurisdiction; that the
2487 requesting jurisdiction shall provide proper safeguards on the witness's custody while in
2488 transit; that the requesting jurisdiction shall be liable for and shall pay all expenses incurred
2489 in producing and returning the witness, including, but not limited to, food, lodging,
2490 clothing, and medical care; and that the requesting jurisdiction shall promptly deliver the
2491 witness back to the same or another Georgia penal institution as specified by the
2492 Department of Corrections at the conclusion of his or her testimony.

2493 (c) The order to the witness and to the person having custody of the witness shall provide
2494 for the return of the witness at the conclusion of his or her testimony, proper safeguards on
2495 his or her custody, and proper financial reimbursement or prepayment by the requesting
2496 jurisdiction of all expenses incurred in the production and return of the witness and may
2497 prescribe such other conditions as the judge thinks proper or necessary. If the judge directs
2498 and requires the requesting jurisdiction to accept custody of the witness at the Georgia
2499 penal institution in which the witness is confined and to deliver the witness back to the
2500 same or another Georgia penal institution at the conclusion of the witness's testimony, no
2501 prepayment of expenses shall be necessary. The order shall not become effective until the
2502 judge of the state requesting the witness enters an order directing compliance with the
2503 conditions prescribed.

2504 (d) This Code section shall not apply to any person in this state confined as insane or
2505 mentally ill or under sentence of death.

2506 24-13-94.

2507 (a) If a person in any state which by its laws has made provision for commanding persons
2508 within its borders to attend and testify in criminal prosecutions or grand jury investigations
2509 commenced or about to commence in this state is a material witness in a prosecution
2510 pending in a court of record in this state or in a grand jury investigation which has
2511 commenced or is about to commence a judge of such court may issue a certificate under
2512 the seal of the court stating these facts and specifying the number of days the witness will
2513 be required. The certificate may include a recommendation that the witness be taken into
2514 immediate custody and delivered to an officer of this state to assure attendance in this state.
2515 This certificate shall be presented to a judge of a court of record in the county in which the
2516 witness is found.

2517 (b) If the witness is summoned to attend and testify in this state, the witness shall be
2518 tendered the sum of 45¢ a mile for each mile by the ordinarily traveled route to and from
2519 the court where the prosecution is pending and \$25.00 for each day that the witness is
2520 required to travel and attend as a witness. A witness who has appeared in accordance with
2521 the provisions of the summons shall not be required to remain within this state for a longer
2522 period of time than the period mentioned in the certificate, unless otherwise ordered by the
2523 court. If such witness, after coming into this state, fails without good cause to attend and
2524 testify as directed in the summons, the witness shall be punished in the manner provided
2525 for in Code Section 24-13-26.

2526 24-13-95.

2527 (a) If a person confined in a penal institution in any other state is a material witness in a
2528 criminal proceeding pending in a court of record or in a grand jury investigation in this
2529 state, a judge of the court may certify that there is a criminal proceeding or investigation
2530 by a grand jury or a criminal proceeding pending in the court, that a person who is confined
2531 in a penal institution in the other state is a material witness in the proceeding or
2532 investigation, and that the witness's presence will be required during a specified time. The
2533 certificate shall be presented to a judge of a court of record in the other state having
2534 jurisdiction over the confined prisoner, and a notice shall be given to the attorney general
2535 of the state in which the prisoner is confined.

2536 (b) The judge of the court in this state may enter an order directing compliance with the
2537 terms and conditions prescribed by the judge of the state in which the witness is confined.

2538 24-13-96.

2539 (a) If a person comes into this state in obedience to a summons directing him or her to
 2540 attend and testify in this state, such person shall not while in this state pursuant to such
 2541 summons be subject to arrest or the service of process, civil or criminal, in connection with
 2542 matters which arose before such person's entrance into this state under the summons.

2543 (b) If a person passes through this state while going to another state in obedience to a
 2544 summons to attend and testify in that state or while returning therefrom, he or she shall not
 2545 while so passing through this state be subject to arrest or the service of process, civil or
 2546 criminal, in connection with matters which arose before such person's entrance into this
 2547 state under the summons.

2548 24-13-97.

2549 This article shall be interpreted and construed so as to effectuate its general purpose to
 2550 make uniform the laws of the states which enact it and shall be applicable only to such
 2551 states as shall enact reciprocal powers to this state relative to the matter of securing
 2552 attendance of witnesses as provided in this article.

2553 ARTICLE 5

2554 24-13-110.

2555 This article shall be known and may be cited as the 'Uniform Foreign Depositions Act.'

2556 24-13-111.

2557 Whenever any mandate, writ, or commission is issued out of any court of record in any
 2558 other state, territory, district, or foreign jurisdiction, or whenever upon notice or agreement
 2559 such court of record is required to take the testimony of a witness in this state, such witness
 2560 may be compelled to appear and testify in the same manner and by the same process and
 2561 proceeding as may be employed for the purpose of taking testimony in proceedings
 2562 pending in this state.

2563 24-13-112.

2564 This article shall be interpreted and construed so as to effectuate its general purposes to
 2565 make uniform the laws of those states which enact it.

2566

ARTICLE 62567 24-13-130.

2568 (a)(1) At any time after an accused has been charged with an offense against the laws of
 2569 this state or an ordinance of any political subdivision or authority thereof, upon motion
 2570 of the state or the accused, the court having jurisdiction to try the offense charged may,
 2571 after notice to the parties, order that the testimony of a prospective material witness of a
 2572 party be taken by deposition and that any designated evidence not privileged be produced
 2573 at the same time and place.

2574 (2) At any time after an accused has been charged with an offense of child molestation,
 2575 aggravated child molestation, or physical or sexual abuse of a child, upon motion of the
 2576 state or the accused, the court having jurisdiction to try the offense charged may, after
 2577 notice to the parties, order that the testimony of any physician whose testimony is
 2578 relevant to such charge be taken by deposition and that any designated evidence not
 2579 privileged be produced at the same time and place.

2580 (b) The court shall not order the taking of the witness's testimony, except as provided in
 2581 paragraph (2) of subsection (a) of this Code section, unless it appears to the satisfaction of
 2582 the court that the testimony of the witness is material to the proceeding and the witness:

2583 (1) Is in imminent danger of death;

2584 (2) Has been threatened with death or great bodily harm because of the witness's status
 2585 as a potential witness in a criminal trial or proceeding;

2586 (3) Is about to leave this state and there are reasonable grounds to believe that such
 2587 witness will be unable to attend the trial;

2588 (4) Is so sick or infirm as to afford reasonable grounds to believe that such witness will
 2589 be unable to attend the trial; or

2590 (5) Is being detained as a material witness and there are reasonable grounds to believe
 2591 that the witness will flee if released from detention.

2592 (c) A motion to take a deposition of a material witness, or a physician as provided in
 2593 paragraph (2) of subsection (a) of this Code section, shall be verified and shall state:

2594 (1) The nature of the offense charged;

2595 (2) The status of the criminal proceedings;

2596 (3) The name of the witness and an address in Georgia where the witness may be
 2597 contacted;

2598 (4) That the testimony of the witness is material to the proceeding or that the witness is
 2599 a physician as provided in paragraph (2) of subsection (a) of this Code section; and

2600 (5) The basis for taking the deposition as provided in subsection (b) of this Code section.

2601 (d) A motion to take a deposition shall be filed in the court having jurisdiction to try the
2602 accused for the offense charged; provided, however, that if the accused is charged with
2603 multiple offenses, only the court having jurisdiction to try the most serious charge against
2604 the accused shall have jurisdiction to hear and decide the motion to take a deposition.

2605 (e) The party moving the court for an order pursuant to this Code section shall give not
2606 less than one day's notice of the hearing to the opposite party. A copy of the motion shall
2607 be sent to the opposing party or his or her counsel by any means which will reasonably
2608 ensure timely delivery, including transmission by facsimile or by digital or electronic
2609 means. A copy of the notice shall be attached to the motion and filed with the clerk of
2610 court.

2611 (f) If the court is satisfied that the examination of the witness is authorized by law and
2612 necessary, the court shall enter an order setting a time period of not more than 30 days
2613 during which the deposition shall be taken.

2614 (g) On motion of either party, the court may designate a judge who shall be available to
2615 rule on any objections to the interrogation of the witness or before whom the deposition
2616 shall be taken. The judge so designated may be a judge of any court of this state who is
2617 otherwise qualified to preside over the trial of criminal proceedings in the court having
2618 jurisdiction over the offense charged.

2619 24-13-131.

2620 (a) The party at whose instance a deposition is to be taken shall give to every party
2621 reasonable written notice of the time and place for taking the deposition. The notice shall
2622 state the name and address of each person to be examined.

2623 (b) On motion of a party upon whom the notice is served, the court for cause shown may
2624 extend or shorten the time or change the place for taking the deposition.

2625 (c) The officer having custody of an accused shall be notified of the time and place set for
2626 the examination and shall, unless the accused waives in writing the right to be present,
2627 produce the accused at the examination and keep the accused in the presence of the witness
2628 during the examination unless, after being warned by the judge that disruptive conduct will
2629 cause the accused's removal from the place where the deposition is being taken, the accused
2630 persists in conduct which would justify exclusion from that place.

2631 (d) An accused not in custody shall have the right to be present at the examination; but
2632 failure of the accused to appear, absent good cause shown, after notice and tender of
2633 expenses, shall constitute a waiver of that right and of any objection to the taking and use
2634 of the deposition based upon that right.

2635 (e) Notwithstanding the provisions of subsections (c) and (d) of this Code section, if the
2636 witness is a child, the court may order that the deposition be taken in accordance with Code
2637 Section 17-8-55.

2638 24-13-132.

2639 (a) If an accused is financially unable to employ counsel, the court shall appoint counsel
2640 as provided in Chapter 12 of Title 17, unless the accused elects to proceed without counsel.

2641 (b) Whenever a deposition is taken at the instance of the state, the cost of any such
2642 deposition shall be paid by the state by the Prosecuting Attorneys' Council of the State of
2643 Georgia out of such funds as may be appropriated for the operations of the district
2644 attorneys.

2645 (c) Depositions taken at the instance of an accused shall be paid for by the accused;
2646 provided, however, that, whenever a deposition is taken at the instance of an accused who
2647 is eligible for the appointment of counsel as provided in Chapter 12 of Title 17, the court
2648 shall direct that the reasonable expenses for the taking of the deposition and of travel and
2649 subsistence of the accused and the accused's attorney for attendance at the examination, not
2650 to exceed the limits established pursuant to Article 2 of Chapter 7 of Title 45, be paid for
2651 out of the fine and forfeiture fund of the county where venue is laid.

2652 24-13-133.

2653 Except as provided in Code Section 24-13-137, a deposition shall be taken and filed in the
2654 manner provided in civil proceedings, provided that (1) in no event shall a deposition be
2655 taken of an accused party without his or her consent and (2) the scope of examination and
2656 cross-examination shall be such as would be allowed in the trial itself. On request or
2657 waiver by the accused, the court may direct that a deposition be taken on written
2658 interrogatories in the manner provided in civil proceedings. Such request shall constitute
2659 a waiver by the accused of any objection to the taking and use of the deposition based upon
2660 its being so taken. If a judge has been designated to rule on objections or to preside over
2661 the deposition, objections to interrogation of the witness shall be made to and ruled on by
2662 such judge in the same manner as at the trial of a criminal proceeding.

2663 24-13-134.

2664 The state or the accused shall make available to each other, for examination and use at the
2665 taking of a deposition pursuant to this article, any statement of the witness being deposed
2666 which is in the possession of the state or the accused and which would be required to be
2667 made available if the witness were testifying at the trial.

2668 24-13-135.

2669 At the trial or upon any hearing, a part or all of a deposition, so far as otherwise admissible
2670 under the rules of evidence, may be used if the witness is unavailable. Any deposition may
2671 also be used by any party for the purpose of contradicting or impeaching the testimony of
2672 the deponent as a witness. If only a part of a deposition is offered in evidence by a party,
2673 an adverse party may require the offering of all of it which is relevant to the part offered,
2674 and any party may offer other parts. A witness is not unavailable if the exemption, refusal
2675 to testify, claim of lack of memory, inability, or absence of such witness is due to the
2676 procurement or wrongdoing of the party offering the deposition at the hearing or trial for
2677 the purpose of preventing the witness from attending or testifying.

2678 24-13-136.

2679 Objections to receiving in evidence a deposition or part thereof may be made as provided
2680 in civil proceedings.

2681 24-13-137.

2682 (a) Any party shall have the right to require that the deposition be recorded and preserved
2683 by the use of audio-visual equipment in addition to a stenographic record. The audio-visual
2684 recording shall be transmitted to the clerk of the court which ordered the deposition and
2685 shall be made available for viewing and copying only to the prosecuting attorney and
2686 accused's attorney prior to trial. An audio-visual recording made pursuant to this Code
2687 section shall not be available for inspection or copying by the public until such audio-visual
2688 recording has been admitted into evidence during a trial or hearing in the case in which
2689 such deposition is made.

2690 (b) An audio-visual recording made pursuant to this Code section may be admissible at a
2691 trial or hearing as an alternative to the stenographic record of the deposition.

2692 (c) A stenographic record of the deposition contemplated in this Code section shall be
2693 made pursuant to Code Section 9-11-28.

2694 24-13-138.

2695 Nothing in this article shall preclude the taking of a deposition, orally or upon written
2696 questions, or the use of a deposition by agreement of the parties with the consent of the
2697 court.

2698 24-13-139.

2699 It is the intent of the General Assembly that depositions shall be taken in criminal
2700 proceedings only in exceptional circumstances when it is in the interests of justice that the

2701 testimony of a prospective witness be taken and preserved for use at trial. If the court finds
 2702 that any party or counsel for a party is using the procedures set forth in this article for the
 2703 purpose of harassment or delay, such conduct may be punished as contempt of court.

2704 ARTICLE 7

2705 24-13-150.

2706 Superior courts may entertain proceedings for the perpetuation of testimony in all
 2707 proceedings in which the fact to which the testimony relates cannot immediately be made
 2708 the subject of investigation at law and in which, for any cause, the common-law proceeding
 2709 authorized under this title is not as available, or as completely available, as a proceeding
 2710 in equity.

2711 24-13-151.

2712 A petition for discovery merely or to perpetuate testimony shall not be sustained unless
 2713 some reason is shown why the usual proceeding at law is inadequate.

2714 24-13-152.

2715 The possession of the property is immaterial; nor shall the proceeding be denied though all
 2716 parties in interest cannot be ascertained or reached.

2717 24-13-153.

2718 Testimony taken in the proceedings contemplated under Code Section 24-13-150 shall be
 2719 used only from the necessity of the case, but in such case may be used against all persons,
 2720 whether parties to the proceeding or not.

2721 24-13-154.

2722 The complainant shall in all cases be taxed with the costs of proceedings to perpetuate
 2723 testimony.

2724 CHAPTER 14

2725 ARTICLE 1

2726 24-14-1.

2727 The burden of proof generally lies upon the party who is asserting or affirming a fact and
 2728 to the existence of whose case or defense the proof of such fact is essential. If a negation

2729 or negative affirmation is essential to a party's case or defense, the proof of such negation
2730 or negative affirmation shall lie on the party so affirming it.

2731 24-14-2.

2732 What amount of evidence will change the onus or burden of proof shall be a question to be
2733 decided in each case by the sound discretion of the court.

2734 24-14-3.

2735 Moral and reasonable certainty is all that can be expected in legal investigation. Except as
2736 provided in Code Section 51-1-29.5 or Code Section 51-12-5.1, in all civil proceedings, a
2737 preponderance of evidence shall be considered sufficient to produce mental conviction.
2738 In criminal proceedings, a greater strength of mental conviction shall be held necessary to
2739 justify a verdict of guilty.

2740 24-14-4.

2741 In determining where the preponderance of evidence lies, the jury may consider all the
2742 facts and circumstances of the case, the witnesses' manner of testifying, their intelligence,
2743 their means and opportunity for knowing the facts to which they testified, the nature of the
2744 facts to which they testified, the probability or improbability of their testimony, their
2745 interest or want of interest, and their personal credibility so far as the same may
2746 legitimately appear from the trial. The jury may also consider the number of the witnesses,
2747 though the preponderance is not necessarily with the greater number.

2748 24-14-5.

2749 Whether dependent upon direct or circumstantial evidence, the true question in criminal
2750 cases is not whether it is possible that the conclusion at which the evidence points may be
2751 false, but whether there is sufficient evidence to satisfy the mind and conscience beyond
2752 a reasonable doubt.

2753 24-14-6.

2754 To warrant a conviction on circumstantial evidence, the proved facts shall not only be
2755 consistent with the hypothesis of guilt, but shall exclude every other reasonable hypothesis
2756 save that of the guilt of the accused.

2757 24-14-7.

2758 The existence of a fact testified to by one positive witness is to be believed, rather than that
2759 such fact did not exist because many other witnesses who had the same opportunity of

2760 observation swear that they did not see or know of its having existed. This rule shall not
 2761 apply when two parties have equal facilities for seeing or hearing a thing and one swears
 2762 that it occurred while the other swears that it did not.

2763 24-14-8.

2764 The testimony of a single witness is generally sufficient to establish a fact. However, in
 2765 certain cases, including prosecutions for treason, prosecutions for perjury, and felony cases
 2766 where the only witness is an accomplice, the testimony of a single witness shall not be
 2767 sufficient. Nevertheless, corroborating circumstances may dispense with the necessity for
 2768 the testimony of a second witness, except in prosecutions for treason.

2769 24-14-9.

2770 In arriving at a verdict, the jury, from facts proved, and sometimes from the absence of
 2771 counter evidence, may infer the existence of other facts reasonably and logically
 2772 consequent on those proved.

2773 ARTICLE 2

2774 24-14-20.

2775 Presumptions are either of law or of fact. Presumptions of law are conclusions and
 2776 inferences which the law draws from given facts. Presumptions of fact shall be exclusively
 2777 questions for the jury, to be decided by the ordinary test of human experience.

2778 24-14-21.

2779 Certain presumptions of law, such as the presumption of innocence, in some cases the
 2780 presumption of guilt, the presumption of continuance of life for seven years, the
 2781 presumption of a mental state once proved to exist, and all similar presumptions, may be
 2782 rebutted by proof.

2783 24-14-22.

2784 If a party has evidence in such party's power and within such party's reach by which he or
 2785 she may repel a claim or charge against him or her but omits to produce it or if such party
 2786 has more certain and satisfactory evidence in his or her power but relies on that which is
 2787 of a weaker and inferior nature, a presumption arises that the charge or claim against such
 2788 party is well founded; but this presumption may be rebutted.

2789 24-14-23.

2790 In the ordinary course of business, when good faith requires an answer, it is the duty of the
 2791 party receiving a letter from another to answer within a reasonable time. Otherwise, the
 2792 party shall be presumed to admit the propriety of the acts mentioned in the letter of the
 2793 party's correspondent and to adopt them.

2794 24-14-24.

2795 In any proceeding to establish a right, title, or interest in or to real property that is a part of
 2796 a railroad right of way, including a right of ingress or egress, where such proceeding is
 2797 based upon occupancy of the railroad right of way by a person or entity other than the
 2798 railroad corporation or railroad company, there shall be a presumption that any such
 2799 occupancy of the railroad right of way is with the permission of the railroad corporation
 2800 or railroad company. Such presumption may be rebutted.

2801 24-14-25.

2802 (a) As used in this Code section:

2803 (1) 'Bank' means any person engaged in the business of banking and includes, in addition
 2804 to a commercial bank, a savings and loan association, savings bank, or credit union.

2805 (2) 'Check' means a draft, other than a documentary draft, payable on demand and drawn
 2806 on a bank, even though it is described by another term, such as 'share draft' or 'negotiable
 2807 order of withdrawal.'

2808 (b) In any dispute concerning payment by means of a check, a duplicate of the check
 2809 produced in accordance with Code Section 24-10-1003, together with the original bank
 2810 statement that reflects payment of the check by the bank on which it was drawn or a
 2811 duplicate thereof produced in the same manner, shall create a presumption that the check
 2812 has been paid.

2813 24-14-26.

2814 (a) Conclusive presumptions of law are termed estoppels; averments to the contrary of
 2815 such presumptions shall not be allowed. Estoppels are not generally favored.

2816 (b) Estoppels include presumptions in favor of:

2817 (1) A record or judgment unreversed;

2818 (2) The proper conduct of courts and judicial officers acting within their legitimate
 2819 spheres;

2820 (3) The proper conduct of other officers of the law after the lapse of time has rendered
 2821 it dangerous to open the investigation of their acts in regard to mere formalities of the
 2822 law;

2823 (4) Ancient deeds and other instruments more than 30 years old, when they come from
 2824 proper custody and possession has been held in accordance with them;
 2825 (5) Recitals in deeds, except payment of purchase money, as against a grantor, sui juris,
 2826 acting in his or her own right, and his or her privies in estate, in blood, and in law;
 2827 (6) A landlord's title as against his or her tenant in possession;
 2828 (7) Solemn admissions made in judicio; or
 2829 (8) Admissions upon which other parties have acted, either to their own injury or to the
 2830 benefit of the persons making the admissions.
 2831 Estoppels also include all similar cases where it would be more unjust and productive of
 2832 evil to hear the truth than to forbear investigation.

2833 24-14-27.

2834 (a) Where an estoppel relates to the title to real estate, the party claiming to have been
 2835 influenced by the other party's acts or declarations shall not only have been ignorant of the
 2836 true title, but also ignorant of any convenient means of acquiring such knowledge.
 2837 (b) Where both parties have equal knowledge or equal means of obtaining the truth, there
 2838 shall be no estoppel.

2839 24-14-28.

2840 Trustees and other representatives with custody of papers have ample opportunities to
 2841 discover defects in the title of property in their care and shall be estopped from setting up
 2842 title adverse to their trust.

2843 24-14-29.

2844 In order for an equitable estoppel to arise, there shall generally be some intended deception
 2845 in the conduct or declarations of the party to be estopped, or such gross negligence as to
 2846 amount to constructive fraud, by which another has been misled to his or her injury.

2847 ARTICLE 3

2848 24-14-40.

2849 (a) Concordance of name alone is some evidence of identity. Residence, vocation,
 2850 ownership of property, and other like facts may be proved. Reasonable certainty shall be
 2851 all that is be required.
 2852 (b) In civil proceedings, parties shall generally be relieved from the onus of proving
 2853 identity, as it is a fact generally more easily disproved than established.

2854 24-14-41.

2855 An officer de facto may be proved to be such by his or her acts, without the production of
2856 his or her commission or appointment.

2857 24-14-42.

2858 A judgment shall be admissible between any parties to show the fact of the rendition
2859 thereof; between parties and privies it is conclusive as to the matter directly in issue, until
2860 reversed or set aside.

2861 24-14-43.

2862 Stern's United States calendar and Stafford's office calendar shall be admissible in proof
2863 of dates for the space of time covered by them respectively without further proof.

2864 24-14-44.

2865 In all civil proceedings where the life expectancy of a person shall be an issue, the
2866 American Experience Mortality Tables shall be admissible as evidence of the life
2867 expectancy of such person.

2868 24-14-45.

2869 (a) In addition to any other lawful methods of computing the value of the life of a decedent
2870 in wrongful death cases or of determining the present value of future due earnings or
2871 amounts in proceedings involving permanent personal injuries, there shall be admissible
2872 in evidence, as competent evidence in such proceedings, either or both of the following
2873 mortality tables:

2874 (1) The Commissioners 1958 Standard Ordinary Mortality Table; or

2875 (2) Annuity Mortality Table for 1949, Ultimate.

2876 (b) In addition to the provisions set out in subsection (a) of this Code section, the jury or
2877 court shall be authorized in cases of wrongful death or permanent personal injuries to use
2878 any table determined by the jury or court, whichever is the trier of fact, to be accurate in
2879 showing the value of annuities on single lives according to the mortality tables listed in
2880 subsection (a) of this Code section.

2881 (c) The admissible evidence provided for in subsections (a) and (b) of this Code section
2882 shall not be the exclusive method which the jury or court is required to use in such
2883 proceedings but shall be supplementary to other lawful and allowable evidence and
2884 methods for such purpose.

2885 24-14-46.

2886 All inspection certificates issued by the United States Department of Agriculture over the
 2887 signature of any inspector thereof which are admissible in courts of the United States as
 2888 prima-facie evidence of the truth of the statements therein contained shall be admissible
 2889 in all courts of the State of Georgia as prima-facie evidence of the truth of the statements
 2890 therein contained.

2891 24-14-47.

2892 (a) A written finding of presumed death made by officers or employees of the United
 2893 States authorized to make such findings pursuant to any law of the United States or a duly
 2894 certified copy of such finding shall be received in any court, office, or other place in this
 2895 state as evidence of the death of the person therein found to be dead and the date,
 2896 circumstances, and place of his or her disappearance.

2897 (b) An official written report, record, or duly certified copy thereof that a person is
 2898 missing, missing in action, interned in a neutral country, beleaguered, besieged, or captured
 2899 by an enemy, dead or alive, made by an officer or employee of the United States authorized
 2900 by any law of the United States to make the same shall be received in any court, office, or
 2901 other place in this state as evidence that such person is missing, missing in action, interned
 2902 in a neutral country, beleaguered, besieged, or captured by an enemy, dead or alive, as the
 2903 case may be.

2904 (c) For the purposes of subsections (a) and (b) of this Code section, any finding, report,
 2905 record, or duly certified copy thereof purporting to have been signed by an officer or
 2906 employee of the United States as is described in this Code section shall prima facie be
 2907 deemed to have been signed and issued by such an officer or employee pursuant to law, and
 2908 the person signing same shall prima facie be deemed to have acted within the scope of his
 2909 or her authority."

2910 **SECTION 3.**

2911 Code Section 4-11-17 of the Official Code of Georgia Annotated, relating to filing a report
 2912 regarding animal cruelty, is amended by revising subsection (a) as follows:

2913 "(a) Notwithstanding Code Section ~~24-9-29~~ 24-12-31 or any other provision of law to the
 2914 contrary, any licensed veterinarian or veterinary technician having reasonable cause to
 2915 believe that an animal has been subjected to animal cruelty in violation of Code Section
 2916 16-12-4 or an act prohibited under Code Section 16-12-37 may make or cause to be made
 2917 a report of such violation to the Commissioner, his or her designee, an animal control
 2918 officer, a law enforcement agency, or a prosecuting attorney and may appear and testify in
 2919 any judicial or administrative proceeding concerning the care of an animal."

2920 **SECTION 4.**

2921 Article 1 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to
 2922 provisions applicable to the Department of Banking and Finance and financial institutions
 2923 generally, is amended by revising Code Section 7-1-63, relating to retention of records, as
 2924 follows:

2925 "7-1-63.

2926 (a) The department shall issue regulations classifying records kept by financial institutions
 2927 and prescribing the period, if any, for which records of each class shall be retained and the
 2928 form in which such records shall be maintained. Such periods may be permanent or for a
 2929 lesser term of years. In issuing such regulations, consideration shall be given to the
 2930 objectives of this chapter and to:

- 2931 (1) Evidentiary effect in actions at law and administrative proceedings in which the
 2932 production of records of financial institutions might be necessary or desirable;
 2933 (2) State and federal statutes of limitation applicable to such actions or proceedings;
 2934 (3) Availability of information contained in the records of the financial institution from
 2935 other sources;
 2936 (4) Requirements of electronic systems of transferring funds; and
 2937 (5) Other pertinent matters;

2938 so that financial institutions will be required to retain records for as short a period as is
 2939 commensurate with interests of customers, shareholders, and the people of this state.

2940 (b) The regulations of the department shall not require financial institutions to maintain
 2941 originals of checks or items for the payment of money or original computer tapes or
 2942 original records with respect to accounts which have been inactive for a period of 12
 2943 successive months. Where a financial institution employs computers, its records may
 2944 consist of legible products of computer operations.

2945 ~~(c) Any copy of a record or of a reproduction of a record stored in an electronic or~~
 2946 ~~photographic medium permitted to be kept in lieu of the original, under this Code section~~
 2947 ~~or the regulations of the department, including legible products of computer operations,~~
 2948 ~~shall be admissible in evidence as though it were the original."~~

2949 **SECTION 5.**

2950 Said article is further amended by revising Code Section 7-1-94, relating to evidential value
 2951 of results of examinations or investigations, as follows:

2952 "7-1-94.

2953 ~~(a) The When the record of any examination or investigation of a financial institution by~~
 2954 ~~the department or the report by the examiner or employee of the department who conducted~~
 2955 ~~such examination or investigation or a copy of either, when duly certified by the~~

2956 department, shall, in the absence of any applicable privilege, be is admissible and constitute
 2957 prima-facie in evidence of facts therein stated, but not of conclusions drawn by the
 2958 examiner from such facts, in any action at law or equity in which one of the parties is the
 2959 department or any officer or employee thereof, either in his official capacity or otherwise,
 2960 or the financial institution subjected to examination or investigation under Title 24, the
 2961 department, with the permission of the court, may edit out of the record or report any
 2962 portion thereof which is not pertinent to the issue in question before the court or which
 2963 would tend unnecessarily to affect adversely the public confidence in the financial
 2964 institution.

2965 (b) ~~The department, with the permission of the court, may edit out of any report to be~~
 2966 ~~admitted as evidence pursuant to subsection (a) of this Code section any portion of the~~
 2967 ~~report which is not pertinent to the issue in question before the court or which would tend~~
 2968 ~~unnecessarily to affect adversely the public confidence in the financial institution."~~

2969 SECTION 6.

2970 Said article is further amended by revising Code Section 7-1-95, relating to the admissibility
 2971 of department's certificates and copies, as follows:

2972 "7-1-95.

2973 ~~When duly certified by the department, a copy of any book, paper, or document on file with~~
 2974 ~~it or a certificate under its seal shall be prima-facie evidence of the facts therein stated in~~
 2975 ~~any court of law or equity or in any investigation or proceeding authorized by law or for~~
 2976 ~~any other purpose and shall be admissible without any additional authentication, but in any~~
 2977 ~~proceeding the court or public body having jurisdiction may, on cause shown, require~~
 2978 ~~production of the original Reserved.~~"

2979 SECTION 7.

2980 Article 1 of Chapter 3 of Title 8 of the Official Code of Georgia Annotated, relating to
 2981 housing authorities, is amended by revising Code Section 8-3-6, relating to resolution as
 2982 conclusive evidence of authority's establishment and authority, as follows:

2983 "8-3-6.

2984 In any action or proceeding involving the validity or enforcement of, or otherwise relating
 2985 to, any contract of an authority, the authority shall be conclusively deemed to have become
 2986 established and authorized to transact business and exercise its powers under this article
 2987 upon proof of the adoption of a resolution by the governing body declaring the need for the
 2988 authority. Such resolution shall be deemed sufficient if it declares that there is need for an
 2989 authority and finds in substantially such terms as appear in subsection (a) of Code Section
 2990 8-3-5, no further detail being necessary, that either or both of the conditions enumerated

2991 in that subsection exist in the city or county, as the case may be. ~~A copy of such resolution~~
 2992 ~~duly certified by the clerk shall be admissible in evidence in any action or proceeding."~~

2993 **SECTION 8.**

2994 Said article is further amended by revising Code Section 8-3-104, relating to resolution as
 2995 conclusive evidence of an authority's establishment, as follows:

2996 "8-3-104.

2997 In any suit, action, or proceeding involving the validity or enforcement of or relating to any
 2998 contract of the regional housing authority, the regional housing authority shall be
 2999 conclusively deemed to have become created as a public body corporate and politic and to
 3000 have become established and authorized to transact business and exercise its powers under
 3001 this part upon proof of the adoption of a resolution by the governing body of each of the
 3002 counties creating the regional housing authority declaring the need for the regional housing
 3003 authority. Each such resolution shall be deemed sufficient if it declares that there is need
 3004 for the regional housing authority and finds in substantially such terms as appear in
 3005 paragraphs (1) and (2) of subsection (a) of Code Section 8-3-102, no further detail being
 3006 necessary, that the conditions enumerated in those paragraphs exist. ~~A copy of such~~
 3007 ~~resolution of the governing body of a county duly certified by the clerk of such county shall~~
 3008 ~~be admissible in evidence in any suit, action, or proceeding."~~

3009 **SECTION 9.**

3010 Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by
 3011 revising Code Section 9-10-6, relating to juror's private knowledge, as follows:

3012 "9-10-6.

3013 A juror shall not act on his or her private knowledge respecting the facts, witnesses, or
 3014 parties ~~unless sworn and examined as a witness in the case."~~

3015 **SECTION 10.**

3016 Said title is further amended by revising Code Section 9-10-9, relating to jurors' affidavits
 3017 permitted to uphold but not impeach a verdict, as follows:

3018 "9-10-9.

3019 ~~The affidavits of jurors may be taken to sustain but not to impeach their verdict Reserved."~~

3020 **SECTION 11.**

3021 Said title is further amended by revising Code Section 9-11-44, relating to official records,
 3022 as follows:

3023 "9-11-44.

3024 ~~(a) *Proof of lack of record.* A written statement, signed by an officer having the custody~~
 3025 ~~of an official record or by his deputy, that after diligent search no record or entry of a~~
 3026 ~~specified tenor is found to exist in the records of his office, accompanied by a certificate~~
 3027 ~~attesting to his custody of the official record relating to such matters, is admissible as~~
 3028 ~~evidence that the records of his office contain no such record or entry.~~

3029 ~~(b) *Other proof.* This Code section does not prevent the proof of official records or of~~
 3030 ~~entry or lack of entry therein by any method authorized by any applicable statutes or by the~~
 3031 ~~rules of evidence at common law Reserved.~~"

3032 **SECTION 12.**

3033 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
 3034 amended by revising Code Section 10-1-157, relating to collecting and testing samples of
 3035 petroleum products and analyses as evidence, as follows:

3036 "10-1-157.

3037 The Commissioner of Agriculture shall, from time to time, collect or cause to be collected
 3038 samples of all petroleum products subject to regulation under this part which are sold,
 3039 offered, or exposed for sale in this state and cause such samples to be tested or analyzed
 3040 by the state oil chemist. ~~The state oil chemist shall certify, under oath, an analysis of each~~
 3041 ~~such sample and such certificate shall be competent evidence of the composition of such~~
 3042 ~~petroleum product in any legal proceeding."~~

3043 **SECTION 13.**

3044 Said title is further amended by revising Code Section 10-1-188, relating to certified analyses
 3045 as evidence, as follows:

3046 "10-1-188.

3047 ~~A copy of the analysis made by the state oil chemist of any brake fluid certified by him~~
 3048 ~~shall be admitted as evidence in any court of this state on the trial of any issue involving~~
 3049 ~~the analysis, standards, or specifications of brake fluid as defined and covered by this part~~
 3050 ~~Reserved.~~"

3051 **SECTION 14.**

3052 Said title is further amended by revising Code Section 10-1-208, relating to certified analyses
 3053 as evidence, as follows:

3054 "10-1-208.

3055 ~~A copy of the analysis made by the state oil chemist of the Department of Agriculture of~~
 3056 ~~any antifreeze and certified by him shall be admitted as evidence in any court of this state~~

3057 upon trial of any issue involving the merits of antifreeze as defined and covered by this part
 3058 Reserved."

3059 **SECTION 15.**

3060 Said title is further amended by revising Code Section 10-1-444, relating to registration of
 3061 marks, certificate, and use as evidence, as follows:

3062 "10-1-444.

3063 Upon compliance by the applicant with the requirements of this part, the Secretary of State
 3064 shall cause a certificate of registration to be issued and delivered to the applicant. The
 3065 certificate of registration shall be issued under the signature of the Secretary of State and
 3066 the seal of the state and it shall show the name and business address and, if a corporation,
 3067 the state of incorporation, of the person claiming ownership of the trademark or service
 3068 mark; the date claimed for the first use of the trademark or service mark anywhere and the
 3069 date claimed for the first use of the trademark or service mark in this state; the class of
 3070 goods or services and a description of the goods or services on which the trademark or
 3071 service mark is used; a reproduction of the trademark or service mark; the registration date;
 3072 and the term of the registration.

3073 ~~Any certificate of registration issued by the Secretary of State under the provisions of this~~
 3074 ~~Code section or a copy thereof duly certified by the Secretary of State shall be admissible~~
 3075 ~~in evidence as competent and sufficient proof of the registration of such trademark or~~
 3076 ~~service mark in any action or judicial proceedings in any court of this state."~~

3077 **SECTION 16.**

3078 Said title is further amended by revising Code Section 10-4-15, relating to inspections of
 3079 warehouses and reports as evidence, as follows:

3080 "10-4-15.

3081 In addition to the general powers conferred by Code Section 10-4-5, the Commissioner and
 3082 his or her duly authorized agents or employees shall have full power and authority to
 3083 inspect public warehouses operated under this article, to inventory, and to check the
 3084 agricultural products stored so as to ascertain the conditions of such products and to
 3085 determine whether or not the business is conducted in such a manner as to protect the
 3086 interest of persons who are storing or may store such products. The inspectors shall make
 3087 sworn reports of their findings to the Commissioner, who shall hold and keep such reports
 3088 in the records of his or her office. ~~Such reports when sworn to shall be public records and~~
 3089 ~~shall be admissible as evidence.~~ Such inspections shall be made as often as deemed
 3090 necessary by the Commissioner, but not less than twice during any license period and, in
 3091 addition, as often as requested by the warehouseman."

3092 **SECTION 17.**

3093 Said title is further amended by revising Code Section 10-6-64, relating to agent may be a
3094 witness, credibility, and admissibility of agent's declarations, as follows:

3095 "10-6-64.

3096 ~~The agent shall be a competent witness either for or against his principal. His interest shall~~
3097 ~~go to his credit. The declarations of the agent as to the business transacted by him shall not~~
3098 ~~be admissible against his principal unless they were a part of the negotiation constituting~~
3099 ~~the res gestae, or else the agent is dead Reserved."~~

3100 **SECTION 18.**

3101 Said title is further amended by revising Code Section 10-14-27, relating to evidence in civil
3102 or criminal actions under Chapter 14, as follows:

3103 "10-14-27.

3104 ~~(a) In any action, civil or criminal, a certificate signed and sealed by the Secretary of State,~~
3105 ~~stating compliance or noncompliance with the provisions of this chapter, shall constitute~~
3106 ~~prima-facie evidence of such compliance or noncompliance with the provisions of this~~
3107 ~~chapter and shall be admissible in any such action.~~

3108 ~~(b) In any action, civil or criminal, copies, photostatic or otherwise, certified by the~~
3109 ~~Secretary of State of any documents filed in his or her office and of any of his or her~~
3110 ~~records shall be admissible with the same effect as the original of such documents or~~
3111 ~~records would have if actually produced Reserved."~~

3112 **SECTION 19.**

3113 Code Section 14-9A-117 of the Official Code of Georgia Annotated, relating to certified
3114 copies admissible in evidence, is amended as follows:

3115 "14-9A-117.

3116 ~~A certified copy of the certificate, power of attorney, and affidavits required to be filed~~
3117 ~~under Code Sections 14-9A-115 and 14-9A-116 shall be admissible in evidence in all~~
3118 ~~courts and places whatever Reserved."~~

3119 **SECTION 20.**

3120 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
3121 Code Section 15-1-14, relating to participation in the Consortium for State Court Interpreter
3122 Certification, as follows:

3123 "15-1-14.

3124 (a) The Supreme Court of Georgia shall establish rules and requirements for foreign
3125 language interpreters and interpreters for the hearing impaired utilized in the courts of this

3126 state and provide for the administration and enforcement of such rules. The Administrative
 3127 Office of the Courts shall administer such rules, requirements, and enforcement.

3128 (b) Except as provided by the Supreme Court of Georgia's rules and requirements for
 3129 interpreters, no person shall serve as a court qualified interpreter who is not currently
 3130 licensed under the rules and requirements established by the Supreme Court.

3131 (c) The Supreme Court may establish fees to be paid by persons desiring certification to
 3132 cover the costs of certifying, regulating, and training court qualified interpreters.

3133 (d) The Supreme Court may enter into and participate in the Consortium for State Court
 3134 Interpreter Certification established August 2, 1997, as amended August 1, 1998, Language
 3135 Access in the Courts and in other similar multistate agreements and cooperative programs
 3136 for the training, testing, and certification of interpreters. Such consortia, multistate
 3137 agreements, and cooperative programs may:

- 3138 (1) Utilize the auspices and services of the National Center for State Courts;
 3139 (2) Provide for the common development, sharing, and distribution of tests, standards,
 3140 educational materials, and programs and related work, and further provide for the
 3141 copyright and other protection of intellectual property;
 3142 (3) Charge fees for membership and other services and retain funds;
 3143 (4) Provide for governance and management; and
 3144 (5) Perform such other services and functions as may be reasonably related to such
 3145 purposes and functions."

3146 **SECTION 21.**

3147 Said title is further amended by revising Code Section 15-11-79.1, relating to the use and
 3148 disposition of evidence, as follows:

3149 "15-11-79.1.

3150 Except as provided in subsection (d) of Code Section 24-6-609, the ~~The~~ disposition of a
 3151 child and evidence adduced in a hearing in the juvenile court may not be used against such
 3152 child in any proceeding in any court other than for a proceeding for delinquency or
 3153 unruliness, whether before or after reaching majority, except in the establishment of
 3154 conditions of bail, plea negotiations, and sentencing in felony offenses; and, in such
 3155 excepted cases, such records of dispositions and evidence shall be available to district
 3156 attorneys and superior court judges and the accused and may be used in the same manner
 3157 as adult records."

3158 **SECTION 22.**

3159 Said title is further amended by revising subsection (b) of Code Section 15-11-84, relating
 3160 to sharing of confidential information, as follows:

3161 "(b) Governmental entities; and state, county, ~~consolidate governments~~ municipal, or
 3162 ~~municipal consolidated~~ government departments, boards, or agencies shall exchange with
 3163 each other all information not held as confidential pursuant to federal law and relating to
 3164 a child which may aid a governmental entity in the assessment, treatment, intervention, or
 3165 rehabilitation of a child, notwithstanding Code Section 15-1-15; or 15-11-9.1, subsection
 3166 (d) of Code Section 15-11-10, or Code Section 15-11-66.1, 15-11-75, 15-11-81, 15-11-82,
 3167 15-11-174, 20-2-751.2, 20-14-40, ~~24-9-40.1, 24-9-41, 24-9-42~~ 24-12-10, 24-12-11,
 3168 24-12-20, 26-4-5, 26-4-80, 26-5-17, 31-5-5, 31-33-6, 37-1-53, 37-2-9.1, 42-5-36, 42-8-40,
 3169 42-8-106, 49-5-40, 49-5-41, 49-5-41.1, 49-5-44, 49-5-45, 49-5-183, 49-5-184, 49-5-185,
 3170 or 49-5-186, in order to serve the best interest of the child. Information which is shared
 3171 pursuant to this subsection shall not be utilized to assist in the prosecution of the child in
 3172 juvenile court or superior court or utilized to the detriment of the child."

3173 SECTION 23.

3174 Said title is further amended by revising paragraph (2) of subsection (c) of Code Section
 3175 15-18-14.1, relating to district attorney investigators, as follows:

3176 "(2) Assist victims and witnesses of crimes through the complexities of the criminal
 3177 justice system and ensure that victims of crime are apprised of the rights afforded them
 3178 under Chapter 14 of Title 17, ~~relating to restitution to victims of crime~~; Chapter 17 of
 3179 Title 17, the 'Crime Victims' Bill of Rights'; Chapter 18 of Title 17, ~~relating to providing~~
 3180 ~~a written statement of information to victims of rape or forcible sodomy~~; and Code
 3181 Section ~~24-6-616~~ 24-9-61.1, ~~relating to the presence of crime victims in the courtroom~~;"

3182 SECTION 24.

3183 Said title is further amended by revising paragraph (2) of subsection (b) of Code Section
 3184 15-18-15, relating to chief assistant district attorney, as follows:

3185 "(2) If the district attorney will be temporarily absent from the judicial circuit such that
 3186 he or she is not available to perform the duties of his or her office, the district attorney
 3187 may authorize, in writing, the chief assistant district attorney to exercise any of the
 3188 powers, duties, and responsibilities of the district attorney during such absence, including
 3189 but not limited to such powers and duties as the district attorney may have pursuant to
 3190 this title, Code Section 16-11-64, and Code Section ~~24-9-28~~ 24-5-507 and the laws of this
 3191 state relating to the validation of bonds."

3192 **SECTION 25.**

3193 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 3194 amended by revising subsection (e) of Code Section 16-5-27, relating to female genital
 3195 mutilation, as follows:

3196 "(e) The statutory privileges provided by Chapter ~~9~~ 5 of Title 24 shall not apply to
 3197 proceedings in which one of the parties to the privilege is charged with a crime against a
 3198 female under 18 years of age, but such person shall be compellable to give evidence only
 3199 on the specific act for which the ~~defendant~~ accused is charged."

3200 **SECTION 26.**

3201 Said title is further amended by revising Code Section 16-12-55, relating to certification of
 3202 tax-exempt status of organization and evidentiary nature of certificate, is amended as
 3203 follows:

3204 "16-12-55.

3205 The director shall upon the request of any prosecuting attorney or his or her designee
 3206 certify the status of any organization as to that organization's exemption from payment of
 3207 state income taxes as a nonprofit organization. The director shall also upon request issue
 3208 a certificate indicating whether any particular organization holds a currently valid license
 3209 to operate a bingo game. ~~Such certificates properly executed shall be admissible in~~
 3210 ~~evidence in any prosecution and~~ Code Section 48-7-60, relative to the disclosure of income
 3211 tax information, shall not apply to the furnishing of such certificate."

3212 **SECTION 27.**

3213 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
 3214 amended by adding a new Code section to Article 2 of Chapter 4, relating to arrest by law
 3215 enforcement officers generally, to read as follows:

3216 "17-4-30.

3217 In the event a hearing impaired person is arrested for any alleged violation of a criminal
 3218 law of this state, the arresting officer shall comply with the provisions of Article 3 of
 3219 Chapter 6 of Title 24."

3220 **SECTION 28.**

3221 Said title is further amended by revising paragraph (4) of subsection (b) of Code Section
 3222 17-4-40, relating to persons who may issue warrants for arrest of offenders against penal
 3223 laws, as follows:

3224 "(4) At the warrant application hearing, the rules ~~regarding admission~~ of evidence at a
 3225 commitment hearing shall apply as set forth in paragraph (1) of subsection (d) of Code

3226 Section 24-1-2. The person seeking the warrant shall have the customary rights of
 3227 presentation of evidence and cross-examination of witnesses. The person whose arrest
 3228 is sought may cross-examine the person or persons applying for the warrant and any other
 3229 witnesses testifying in support of the application at the hearing. The person whose arrest
 3230 is sought may present evidence that probable cause does not exist for his or her arrest.
 3231 The judge or other officer shall have the right to limit the presentation of evidence and
 3232 the cross-examination of witnesses to the issue of probable cause."

3233 **SECTION 29.**

3234 Said title is further amended by revising Code Section 17-7-25, relating to the power of the
 3235 court to compel attendance of witnesses, as follows:

3236 "17-7-25.

3237 A court of inquiry shall have the same power to compel the attendance of witnesses as in
 3238 other criminal cases, as set forth in and subject to all of the provisions of Chapter ~~10~~ 13 of
 3239 Title 24, at any location where the court shall conduct a hearing, provided that notice is
 3240 given at least 24 hours prior to the hearing. A court of inquiry may order the arrest of
 3241 witnesses if required to compel their attendance."

3242 **SECTION 30.**

3243 Said title is further amended by revising Code Section 17-7-28, relating to hearing of
 3244 evidence by court of inquiry and the right of a defendant to testify, as follows:

3245 "17-7-28.

3246 The court of inquiry shall hear all legal evidence submitted by either party. If the
 3247 ~~defendant~~ accused wishes to testify and announces in open court before the court of inquiry
 3248 his or her intention to do so, ~~he~~ the accused may testify in his or her own behalf. If ~~he~~ ~~so~~
 3249 the accused elects to testify, he or she shall be sworn as any other witness and may be
 3250 examined and cross-examined as any other witness, ~~except that no evidence of general bad~~
 3251 ~~character or prior convictions shall be admissible unless and until the defendant first puts~~
 3252 ~~his character into issue.~~ The rules of evidence shall apply except that hearsay shall be
 3253 admissible. The failure of a ~~defendant~~ an accused to testify shall create no presumption
 3254 against ~~him~~ the accused, and no comment may be made because of such failure."

3255 **SECTION 31.**

3256 Said title is further amended by revising subsection (b) of Code Section 17-7-93, relating to
 3257 reading of indictment or accusation and recording of 'guilty' pleas and pronouncement of
 3258 judgment, as follows:

3259 "(b) If the person pleads 'guilty,' the plea shall be immediately recorded on the minutes of
 3260 the court by the clerk, together with the arraignment; and the court shall pronounce the
 3261 judgment of the law upon the person in the same manner as if he or she had been convicted
 3262 of the offense by the verdict of a jury. At any time before judgment is pronounced, the
 3263 accused person may withdraw the plea of 'guilty' and plead 'not guilty'; ~~and the former plea~~
 3264 ~~shall not be admissible as evidence against him at his trial."~~

3265 SECTION 32.

3266 Said title is further amended by revising Code Section 17-9-20, relating to action by juror on
 3267 private knowledge as to facts, witnesses, or parties, as follows:

3268 "17-9-20.

3269 A juror shall not act on his or her private knowledge respecting the facts, witnesses, or
 3270 parties ~~unless he is sworn and examined as a witness in the case."~~

3271 SECTION 33.

3272 Said title is further amended by revising Code Section 17-9-41, relating to the use of
 3273 affidavits of jurors relating to verdict, as follows:

3274 "17-9-41.

3275 ~~The affidavits of jurors may be taken to sustain but not to impeach their verdict~~ Reserved."

3276 SECTION 34.

3277 Said title is further amended by revising subparagraph (b)(3)(C) of Code Section 17-16-4,
 3278 relating to disclosure required by prosecuting attorney and defendant, as follows:

3279 "(C) The defendant shall, no later than five days before the trial commences, serve
 3280 upon the prosecuting attorney a list of witnesses that the defendant intends to call as a
 3281 witness in the presentence hearing. No later than the announcement of the verdict of
 3282 the jury or if the defendant has waived a jury trial at the time the verdict is published
 3283 by the court, the defendant shall produce for the opposing party any statement of such
 3284 witnesses that is in the possession, custody, or control of the defendants or the
 3285 defendant's counsel that relates to the subject matter of the testimony of such witnesses
 3286 unless such statement is protected from disclosure by the privilege contained in
 3287 paragraph (5), (6), (7), or (8) of subsection (a) of Code Section 24-9-21 24-5-501."

3288 SECTION 35.

3289 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
 3290 revising subsection (d) of Code Section 20-2-940, relating to grounds and procedure for
 3291 terminating or suspending contract of employment, as follows:

3292 "(d) *Counsel; testimony.* Any teacher, principal, or other person against whom such
 3293 charges listed in subsection (a) of this Code section have been brought shall be entitled to
 3294 be represented by counsel and, upon request, shall be entitled to have subpoenas or other
 3295 compulsory process issued for attendance of witnesses and the production of documents
 3296 and other evidence. Such subpoenas and compulsory process shall be issued in the name
 3297 of the local board and shall be signed by the ~~chairman~~ chairperson or ~~vice-chairman~~ vice
 3298 chairperson of the local board. In all other respects, such subpoenas and other compulsory
 3299 process shall be subject to ~~Part 1 of Article 2 of Chapter 10~~ 13 of Title 24, ~~as now or~~
 3300 ~~hereafter amended.~~"

3301

SECTION 36.

3302 Said title is further amended by revising Code Section 20-2-991, relating to liability
 3303 insurance for performance of duties authorized and the admissibility of insurance in
 3304 evidence, as follows:

3305 "20-2-991.

3306 In addition to other compensation paid to members of the State Board of Education, the
 3307 State School Superintendent, and employees of the state board, and to members of boards
 3308 of education, school superintendents, teachers, principals, officers, and employees of
 3309 boards of control of cooperative educational service agencies, and other administrators and
 3310 employees of county and other local public school systems, the state board, the boards of
 3311 control of cooperative educational service agencies, and the several boards of education of
 3312 counties, cities, and independent school systems, whenever created, are authorized, in their
 3313 discretion, to purchase policies of liability insurance or contracts of indemnity insuring or
 3314 indemnifying the members of the state board, State School Superintendent, employees of
 3315 the state board, officers and employees of boards of control of cooperative educational
 3316 service agencies, and the members of the boards of education, superintendents, teachers,
 3317 principals, and other administrators and employees against damages arising out of the
 3318 performance of their duties or in any way connected therewith, whether based upon
 3319 negligence, violation of contract rights, or violation of civil, constitutional, common-law,
 3320 or other statutory rights, whether state, federal, or both. Such boards may expend state,
 3321 county, federal, and local funds, or any combination thereof, for such purposes. The
 3322 amount of such insurance or indemnity shall be in the discretion of the respective board.
 3323 No action shall be maintained against the person or company issuing such insurance or
 3324 contracting for such indemnity until final judgment has first been entered against the
 3325 individual covered by such policy or contract, ~~and the existence of such insurance or~~
 3326 ~~indemnity shall not be disclosed or suggested in any action brought against such~~
 3327 ~~individual.~~"

3328 **SECTION 37.**

3329 Code Section 22-1-14 of the Official Code of Georgia Annotated, relating to valuation of
3330 condemned property, is amended as follows:

3331 "22-1-14.

3332 (a) When property is condemned under this title or any other title of this Code, the value
3333 of the condemned property may be determined through lay or expert testimony and its
3334 admissibility shall be addressed to the sound discretion of the court.

3335 (b) If any party to a condemnation proceeding seeks to introduce expert testimony as to
3336 the issue of just and adequate compensation, Code Section ~~24-9-67~~ 24-7-702 shall not
3337 apply."

3338 **SECTION 38.**

3339 Code Section 26-4-80 of the Official Code of Georgia Annotated, relating to dispensing and
3340 electronically transmitted drug orders, is amended by revising subsection (d) as follows:

3341 "(d) Information contained in the patient medication record or profile shall be considered
3342 confidential information as defined in this title. Confidential information may be released
3343 to the patient or the patient's authorized representative, the prescriber or other licensed
3344 health care practitioners then caring for the patient, another licensed pharmacist, the board
3345 or its representative, or any other person duly authorized to receive such information. In
3346 accordance with Code Section ~~24-9-40~~ 24-12-1, confidential information may be released
3347 to others only on the written release of the patient, court order, or subpoena."

3348 **SECTION 39.**

3349 Code Section 28-1-16 of the Official Code of Georgia Annotated, relating to issuance of
3350 subpoenas by the Superior Court of Fulton County on behalf of the Committees on Ethics
3351 of the Senate and House of Representatives, is amended by revising subsection (e) as
3352 follows:

3353 "(e) A subpoena issued under this Code section may be served at any place in ~~the~~ this state
3354 and in any manner authorized in Code Section ~~24-10-23~~ 24-13-24. Fees and mileage shall
3355 be paid and tendered as provided in Code Section ~~24-10-24~~ 24-13-25, notwithstanding the
3356 general exemption of the state from tender of fees and mileage, and shall be in the form of
3357 a check issued by the Legislative Fiscal Office upon the written request of the chairperson
3358 or acting chairperson."

3359 **SECTION 40.**

3360 Code Section 29-9-13.1 of the Official Code of Georgia Annotated, relating to authentication
3361 of documents, is amended as follows:

3362 "29-9-13.1.
 3363 Whenever it is required that a document which is to be filed in the court be authenticated
 3364 or exemplified, such requirement shall be met by complying with the provisions of Code
 3365 Section ~~24-7-24~~ 24-9-922 and paragraphs (1) through (4) of Code Section 24-9-902 and
 3366 such full faith and credit shall be given to the document as is provided in that Code
 3367 section."

3368 **SECTION 41.**

3369 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising
 3370 Code Section 31-5-5, relating to contents of official record as evidence and classification of
 3371 privileged materials, as follows:

3372 "31-5-5.

3373 ~~(a) Any order, rule, regulation, or any other document, record, or entry contained in the~~
 3374 ~~official record or minutes of the department or of any county board of health shall be~~
 3375 ~~admissible in evidence in any proceeding before any court or other tribunal in this state~~
 3376 ~~where otherwise admissible and not privileged or confidential under this Code section~~
 3377 ~~when certified as true and correct by and duly authorized by the director at the county level~~
 3378 ~~and the examiner at the state level. It shall be the duty of the director or examiner, who~~
 3379 ~~shall be custodian of such records, to furnish and certify copies of the record or other~~
 3380 ~~evidence upon payment of reasonable costs therefor. Nothing in this Code section shall be~~
 3381 ~~construed as applying to Code Section 12-5-175.~~

3382 (b) The department and county boards of health are authorized by regulation to classify
 3383 as confidential and privileged documents, reports and other information and data obtained
 3384 by them from persons, firms, corporations, municipalities, counties, and other public
 3385 authorities and political subdivisions, where such matters relate to secret processes,
 3386 formulas, and methods or where such matters were obtained or furnished on a confidential
 3387 basis. All matters so classified shall not be subject to public inspection or discovery and
 3388 shall not be subject to production or disclosure in any court of law or elsewhere until and
 3389 unless the judge of the court of competent jurisdiction, after in camera inspection,
 3390 determines that the public interest requires such production and disclosure or that such
 3391 production and disclosure may be necessary in the ~~interest~~ interests of justice."

3392 **SECTION 42.**

3393 Said title is further amended by revising Code Section 31-10-26, relating to certified copies
 3394 of vital records, issuance, evidentiary effect, and use for other purposes, as follows:

3395 "31-10-26.

3396 (a) In accordance with Code Section 31-10-25 and the regulations adopted pursuant
3397 thereto:

3398 (1) The state registrar or local custodian of vital records appointed by the state registrar
3399 to issue certified copies upon receipt of a written application shall issue a certified copy
3400 of a vital record in that registrar's or custodian's custody or abstract thereof to any
3401 applicant having a direct and tangible interest in the vital record, except that certified
3402 copies of certificates shall only be issued to:

3403 (A) The person whose record of birth is registered;

3404 (B) Either parent, guardian, or temporary guardian of the person whose record of birth
3405 or death is registered;

3406 (C) The living legal spouse or next of kin or the legal representative or the person who
3407 in good faith has applied and produced a record of such application to become the legal
3408 representative of the person whose record of birth or death is registered;

3409 (D) The court of competent jurisdiction upon its order or subpoena; or

3410 (E) Any governmental agency, state or federal, provided that such certificate shall be
3411 needed for official purposes.

3412 (2) Each certified copy issued shall show the date of registration and ~~copies~~ duplicates
3413 issued from records marked 'delayed' or 'amended' shall be similarly marked and show
3414 the effective date. The documentary evidence used to establish a delayed certificate of
3415 birth shall be shown on all ~~copies~~ duplicates issued. All forms and procedures used in
3416 the issuance of certified copies of vital records in ~~the~~ this state shall be provided or
3417 approved by the state registrar.

3418 ~~(b) A certified copy of a vital record or any part thereof, issued in accordance with~~
3419 ~~subsection (a) of this Code section, shall be considered for all purposes the same as the~~
3420 ~~original and shall be prima-facie evidence of the facts stated therein, provided that the~~
3421 ~~evidentiary value of a certificate or record filed more than one year after the event, or a~~
3422 ~~record which has been amended, shall be determined by the judicial or administrative body~~
3423 ~~or official before whom the certificate is offered as evidence.~~

3424 ~~(c)~~ The federal agency responsible for national vital statistics may be furnished such
3425 ~~copies~~ duplicates or data from the system of vital records as it may require for national
3426 statistics, provided such federal agency shares in the cost of collecting, processing, and
3427 transmitting such data and provided further that such data shall not be used for other than
3428 statistical purposes by the federal agency unless so authorized by the state registrar.

3429 ~~(d)~~(c) The state registrar may, by agreement, transmit ~~copies~~ duplicates of records and
3430 other reports required by this chapter to offices of vital records outside this state when such
3431 records or other reports relate to residents of those jurisdictions or persons born in those

3432 jurisdictions. The agreement shall require that the ~~copies~~ duplicates be used for statistical
 3433 and administrative purposes only and the agreement shall further provide for the retention
 3434 and disposition of such ~~copies~~ duplicates. Copies Duplicates received by the department
 3435 from offices of vital statistics in other states shall be handled in the same manner as
 3436 prescribed in this Code section.

3437 ~~(e)~~(d) No person shall prepare or issue any certificate which purports to be an original,
 3438 certified copy or ~~copy~~ duplicate of a vital record except as authorized in this chapter or
 3439 regulations adopted under this chapter.

3440 ~~(f)~~(e) No ~~copies~~ duplicates or parts thereof of a vital record shall be reproduced or
 3441 information ~~copies~~ copied for commercial or speculative purposes. This subsection shall
 3442 not apply to published results of research."

3443 **SECTION 43.**

3444 Said title is further amended by revising paragraph (3) of subsection (c) of Code Section
 3445 31-21-3, relating to death of person with infectious or communicable disease, as follows:

3446 "(3) That disclosure is made by a physician pursuant to Code Section ~~24-9-40~~ 24-12-1
 3447 or any other law authorizing a physician to disclose otherwise privileged information;"

3448 **SECTION 44.**

3449 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
 3450 revising Code Section 33-2-2, relating to seal of Commissioner and admissibility in evidence
 3451 of sealed documents, as follows:

3452 "33-2-2.

3453 The Commissioner shall have an official seal of such design as he or she shall select with
 3454 the approval of the Governor. ~~Every certificate and other document or paper executed by~~
 3455 ~~the Commissioner in the pursuance of any authority conferred upon him by law and sealed~~
 3456 ~~with the seal of his office and all copies or photographic copies of papers certified by him~~
 3457 ~~and authenticated by said seal shall in all cases be evidence 'in equal and like manner' as~~
 3458 ~~the original thereof and shall in all cases be primary evidence of the contents of the original~~
 3459 ~~and shall be admissible in any court in this state."~~

3460 **SECTION 45.**

3461 Said title is further amended by revising subsection (b) of Code Section 33-20A-37, relating
 3462 to the effect of favorable determinations, as follows:

3463 "(b) A determination by the independent review organization in favor of a managed care
 3464 entity shall create a rebuttable presumption in any subsequent action that the managed care

3465 entity's prior determination was appropriate and shall constitute a medical record for
 3466 purposes of Code Section ~~24-7-8~~."

3467 **SECTION 46.**

3468 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
 3469 is amended by revising subsection (a) of Code Section 34-9-60, relating to rule-making and
 3470 subpoena powers, as follows:

3471 "(a) The board may make rules, not inconsistent with this chapter, for carrying out this
 3472 chapter. Processes and procedure under this chapter shall be as summary and simple as
 3473 reasonably possible; provided, however, that, in any proceeding under this chapter where
 3474 the parties are represented by counsel, the board may require, by rule or regulation, on
 3475 forms provided by the board, the filing of statements of contentions and points of
 3476 agreement. The board may promulgate policies, rules, and regulations concerning the
 3477 electronic submission to and transmission from the board of documents and filings. The
 3478 board, any member of the board, or any administrative law judge shall have the power for
 3479 the purposes of this chapter to issue and enforce subpoenas, to administer or cause to have
 3480 administered oaths, and to examine or cause to be examined such parts of the books and
 3481 records of the parties to a proceeding as relate to questions in dispute. Article 2 of Chapter
 3482 ~~13~~ 13 of Title 24 shall govern the issuance and enforcement of subpoenas pursuant to this
 3483 Code section, except that the board, any member of the board, or any administrative law
 3484 judge shall carry out the functions of the court and the executive director shall carry out the
 3485 functions of the clerk of the court. The board shall not, however, have the power to order
 3486 imprisonment as a means of enforcing a subpoena. The board shall have the power to issue
 3487 writs of fieri facias in order to collect fines imposed pursuant to this Code section and such
 3488 writs may be enforced in the same manner as a similar writ issued by a superior court."

3489 **SECTION 47.**

3490 Said title is further amended by revising paragraph (5) of subsection (e) of Code Section
 3491 34-9-102, relating to hearings before administrative law judges, as follows:

3492 "(5) Code Section ~~24-3-18~~ 24-8-826 shall not apply to workers' compensation claims
 3493 filed under this chapter."

3494 **SECTION 48.**

3495 Said title is further amended by revising paragraph (4) of subsection (b) of Code Section
 3496 34-9-108, relating to approval of attorney's fees by the board, as follows:

3497 "(4) Upon a determination that proceedings have been brought, prosecuted, or defended
 3498 in whole or in part without reasonable grounds, the administrative law judge or the board

3499 may, in addition to reasonable attorney's fees, award to the adverse party in whole or in
 3500 part reasonable litigation expenses against the offending party. Reasonable litigation
 3501 expenses under this subsection are limited to witness fees and mileage pursuant to Code
 3502 Section ~~24-10-24~~ 24-13-25; reasonable expert witness fees subject to the fee schedule;
 3503 reasonable deposition transcript costs; and the cost of the hearing transcript."

3504 **SECTION 49.**

3505 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia
 3506 Bureau of Investigation, is amended by adding a new article to read as follows:

3507 "ARTICLE 6A

3508 35-3-160.

3509 (a) As used in this article, the term:

3510 (1) 'Department' means the Department of Corrections.

3511 (2) 'Division' means the Division of Forensic Services of the Georgia Bureau of
 3512 Investigation.

3513 (3) 'State correctional facility' means a penal institution under the jurisdiction of the
 3514 department, including inmate work camps and inmate boot camps; provided, however,
 3515 that such term shall not include a probation detention center, probation diversion center,
 3516 or probation boot camp under the jurisdiction of the department.

3517 (b) Any person convicted of:

3518 (1) Rape in violation of Code Section 16-6-1;

3519 (2) Sodomy or aggravated sodomy in violation of Code Section 16-6-2;

3520 (3) Statutory rape in violation of Code Section 16-6-3;

3521 (4) Child molestation or aggravated child molestation in violation of Code Section
 3522 16-6-4;

3523 (5) Enticing a child for indecent purposes in violation of Code Section 16-6-5;

3524 (6) Sexual assault against persons in custody, sexual assault against a person detained
 3525 or a patient in a hospital or other institution, or sexual assault by a practitioner of
 3526 psychotherapy against a patient in violation of Code Section 16-6-5.1;

3527 (7) Bestiality in violation of Code Section 16-6-6;

3528 (8) Necrophilia in violation of Code Section 16-6-7; or

3529 (9) Incest in violation of Code Section 16-6-22

3530 shall have a sample of his or her blood, an oral swab, or a sample obtained from a
 3531 noninvasive procedure taken for DNA (deoxyribonucleic acid) analysis to determine
 3532 identification characteristics specific to the person. In addition, on and after July 1, 2000,

3533 any person convicted of a felony and incarcerated in a state correctional facility shall at the
 3534 time of entering the prison system have a sample of his or her blood, an oral swab, or a
 3535 sample obtained from a noninvasive procedure taken for DNA (deoxyribonucleic acid)
 3536 analysis to determine identification characteristics specific to the person. The provisions
 3537 and requirements of this Code section shall also apply to any person who has been
 3538 convicted of a felony prior to July 1, 2000, and who currently is incarcerated in a state
 3539 correctional facility in this state for such offense. The provisions and requirements of this
 3540 Code section shall also apply to any person who has been convicted of a felony in this state
 3541 on or after July 1, 2000, and who is incarcerated in a private correctional facility in this
 3542 state for such offense pursuant to a contract with the department upon entering the facility,
 3543 and for any person convicted of a felony prior to July 1, 2000, and who is incarcerated in
 3544 a private correctional facility in this state pursuant to contract with the department. The
 3545 analysis shall be performed by the division. The division shall be authorized to contract
 3546 with individuals or organizations for services to perform such analysis. The identification
 3547 characteristics of the profile resulting from the DNA analysis shall be stored and
 3548 maintained by the bureau in a DNA data bank and shall be made available only as provided
 3549 in Code Section 35-3-163.

3550 (c)(1) On and after July 1, 2007, any person who is placed on probation shall have a
 3551 sample of his or her blood, an oral swab, or a sample obtained from a noninvasive
 3552 procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification
 3553 characteristics specific to the person if such person is convicted of a felony violation of:

3554 (A) Chapter 5 of Title 16;

3555 (B) Rape in violation of Code Section 16-6-1;

3556 (C) Sodomy or aggravated sodomy in violation of Code Section 16-6-2;

3557 (D) Statutory rape in violation of Code Section 16-6-3;

3558 (E) Child molestation or aggravated child molestation in violation of Code Section
 3559 16-6-4;

3560 (F) Enticing a child for indecent purposes in violation of Code Section 16-6-5;

3561 (G) Sexual assault against persons in custody, sexual assault against a person detained
 3562 or a patient in a hospital or other institution, or sexual assault by a practitioner of
 3563 psychotherapy against a patient in violation of Code Section 16-6-5.1;

3564 (H) Bestiality in violation of Code Section 16-6-6;

3565 (I) Necrophilia in violation of Code Section 16-6-7;

3566 (J) Incest in violation of Code Section 16-6-22;

3567 (K) Burglary in violation of Code Section 16-7-1;

3568 (L) Robbery in violation of Code Section 16-8-40;

3569 (M) Armed robbery in violation of Code Section 16-8-41;

3570 (N) Impersonating a peace officer or public officer or employee in violation of Code
 3571 Section 16-10-23;

3572 (O) Obstruction or hindering any law enforcement officer in violation of Code Section
 3573 16-10-24;

3574 (P) Article 4 of Chapter 11 of Title 16; or

3575 (Q) Chapter 13 of Title 16.

3576 (2) The analysis shall be performed by the division. The division shall be authorized to
 3577 contract with individuals or organizations for services to perform such analysis. The
 3578 identification characteristics of the profile resulting from the DNA analysis shall be
 3579 stored and maintained by the bureau in a DNA data bank and shall be made available
 3580 only as provided in Code Section 35-3-163. The department shall be responsible for
 3581 collecting such sample.

3582 35-3-161.

3583 (a) Each sample required pursuant to Code Section 35-3-160 from persons who are to be
 3584 incarcerated shall be withdrawn within the first 30 days of incarceration at the receiving
 3585 unit or at such other place as is designated by the department. Each sample required
 3586 pursuant to Code Section 35-3-160 from persons who are to be released from a state
 3587 correctional facility or private correctional facility shall be withdrawn within the 12 months
 3588 preceding such person's release at a place designated by the department. The required
 3589 samples from persons who are not sentenced to a term of confinement shall be withdrawn
 3590 as a condition of probation. The division shall publish in its quality manuals the
 3591 procedures for the collection and transfer of samples to such division pursuant to Code
 3592 Section 35-3-154. Personnel at a department facility shall implement the provisions of this
 3593 Code section as part of the regular processing of offenders.

3594 (b) Samples collected by oral swab or by a noninvasive procedure may be collected by any
 3595 individual who has been trained in the procedure. Only a correctional health nurse
 3596 technician, physician, registered professional nurse, licensed practical nurse, graduate
 3597 laboratory technician, or phlebotomist shall withdraw any sample of blood to be submitted
 3598 for analysis. No civil liability shall attach to any person authorized to take a sample as
 3599 provided in this article as a result of the act of taking a sample from any person submitting
 3600 thereto, provided the sample was taken according to recognized medically accepted
 3601 procedures. However, no person shall be relieved from liability for negligence in the
 3602 withdrawing of any blood sample.

3603 (c) Chemically clean sterile disposable needles shall be used for the withdrawal of all
 3604 samples of blood. The containers for blood samples, oral swabs, and the samples obtained
 3605 by noninvasive procedures shall be sealed and labeled with the subject's name, social

3606 security number, date of birth, race, and gender plus the name of the person collecting the
3607 sample and the date and place of collection. The containers shall be secured to prevent
3608 tampering with the contents. The steps set forth in this subsection relating to the taking,
3609 handling, identification, and disposition of samples are procedural and not substantive.
3610 Substantial compliance therewith shall be deemed to be sufficient. The samples shall be
3611 transported to the division not more than 15 days following withdrawal and shall be
3612 analyzed and stored in the DNA data bank in accordance with Code Sections 35-3-162 and
3613 35-3-163.

3614 35-3-162.

3615 Whether or not the results of an analysis are to be included in the data bank, the bureau
3616 shall conduct the DNA analysis in accordance with procedures adopted by the bureau to
3617 determine identification characteristics specific to the individual whose sample is being
3618 analyzed. The director of the bureau or his or her designated representative shall complete
3619 and maintain on file a form indicating the name of the person whose sample is to be
3620 analyzed, the date and by whom the sample was received and examined, and a statement
3621 that the seal on the container containing the sample had not been broken or otherwise
3622 tampered with. The remainder of a sample submitted for analysis and inclusion in the data
3623 bank pursuant to Code Section 35-3-160 may be divided, if possible, labeled as provided
3624 for the original sample, and securely stored by the bureau in accordance with specific
3625 procedures of the bureau to ensure the integrity and confidentiality of the samples. All or
3626 part of the remainder of that sample may be used only to create a statistical data base
3627 provided no identifying information on the individual whose sample is being analyzed is
3628 included or for retesting by the bureau to validate or update the original analysis. A report
3629 of the results of a DNA analysis conducted by the bureau as authorized, including the
3630 identifying information, shall be made and maintained at the bureau. Except as specifically
3631 provided in this Code section and Code Section 35-3-163, the results of the analysis shall
3632 be securely stored and shall remain confidential.

3633 35-3-163.

3634 (a) It shall be the duty of the bureau to receive samples and to analyze, classify, and file
3635 the results of DNA identification characteristics of samples submitted pursuant to Code
3636 Section 35-3-160 and to make such information available as provided in this Code section.
3637 The results of an analysis and comparison of the identification of the characteristics from
3638 two or more biological samples shall be made available directly to federal, state, and local
3639 law enforcement officers upon a request made in furtherance of an official investigation
3640 of any criminal offense. A request may be made by personal contact, mail, or electronic

3641 means. The name of the requestor and the purpose for which the information is requested
3642 shall be maintained on file with the bureau.

3643 (b) Upon request from a prosecutor or law enforcement agency, the bureau may compare
3644 a DNA profile from an analysis of a sample from a suspect in a criminal investigation
3645 where the sample was obtained through a search warrant, consent of the suspect, court
3646 order, or other lawful means to DNA profiles lawfully collected and maintained by the
3647 bureau. The bureau shall not add a DNA profile of any such suspect to any DNA data bank
3648 except upon conviction as provided in this article.

3649 (c)(1) Upon his or her request, a copy of the request for search shall be furnished to any
3650 person identified and charged with an offense as the result of a search of information in
3651 the data bank. Only when a sample or DNA profile supplied by the requestor
3652 satisfactorily matches the requestor's profile in the data bank shall the existence of data
3653 in the data bank be confirmed or identifying information from the data bank be
3654 disseminated.

3655 (2) The name of the convicted offender whose profile is contained in the data bank may
3656 be related to any other data bases which are constructed for law enforcement purposes
3657 and may be disseminated only for law enforcement purposes.

3658 (3) Upon a showing by the accused in a criminal proceeding that access to the DNA data
3659 bank is material to the investigation, preparation, or presentation of a defense at trial or
3660 in a motion for a new trial, a superior court having proper jurisdiction over such criminal
3661 proceeding shall direct the bureau to compare a DNA profile which has been generated
3662 by the accused through an independent test against the data bank, provided that such
3663 DNA profile has been generated in accordance with standards for forensic DNA analysis
3664 adopted pursuant to 42 U.S.C. Section 14131.

3665 (d) The bureau shall develop procedures governing the methods of obtaining information
3666 from the data bank in accordance with this Code section and procedures for verification of
3667 the identity and authority of the requestor. The bureau shall specify the positions in that
3668 agency which require regular access to the data bank and samples submitted as a necessary
3669 function of the job.

3670 (e) The bureau may create a separate statistical data base comprised of DNA profiles of
3671 samples of persons whose identity is unknown. Nothing in this Code section or Code
3672 Section 35-3-164 shall prohibit the bureau from sharing or otherwise disseminating the
3673 information in the statistical data base with law enforcement or criminal justice agencies
3674 within or outside this state.

3675 (f) The bureau may charge a reasonable fee to search and provide a comparative analysis
3676 of DNA profiles in the data bank to any authorized law enforcement agency outside of this
3677 state.

3678 35-3-164.

3679 (a) Any person who, without authority, disseminates information contained in the data
 3680 bank shall be guilty of a misdemeanor. Any person who disseminates, receives, or
 3681 otherwise uses or attempts to so use information in the data bank, knowing that such
 3682 dissemination, receipt, or use is for a purpose other than as authorized by law, shall be
 3683 guilty of a misdemeanor of a high and aggravated nature.

3684 (b) Except for purposes of law enforcement or as authorized by this article, any person
 3685 who, for purposes of having DNA analysis performed, obtains or attempts to obtain any
 3686 sample submitted to the division for analysis shall be guilty of a felony.

3687 35-3-165.

3688 A person whose DNA profile has been included in the data bank pursuant to this article
 3689 may request that it be expunged on the grounds that the conviction on which the authority
 3690 for including his or her DNA profile was based has been reversed and the case dismissed.
 3691 The bureau shall purge all records and identifiable information in the data bank pertaining
 3692 to the person and destroy all samples from the person upon receipt of a written request that
 3693 such data be expunged, pursuant to this Code section, and a certified copy of the court
 3694 order reversing and dismissing the conviction."

3695 **SECTION 50.**

3696 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 3697 by revising paragraph (2) of Code Section 36-74-25, relating to powers of enforcement
 3698 boards created on or after January 1, 2003, as follows:

3699 "(2) Subpoena alleged violators and witnesses to its hearings, with the approval of the
 3700 court with jurisdiction over a criminal violator of the county or municipal code or
 3701 ordinance. Subpoenas may be served by the sheriff, marshal, or police department of the
 3702 county or by the police department of the municipality or by any other individual
 3703 authorized by Code Section ~~24-10-23~~ 24-13-24 to serve subpoenas;"

3704 **SECTION 51.**

3705 Said title is further amended by revising paragraph (2) of Code Section 36-74-45, relating
 3706 to powers of enforcement boards created prior to January 1, 2003, as follows:

3707 "(2) Subpoena alleged violators and witnesses to its hearings, with the approval of the
 3708 court with jurisdiction over a criminal violator of the county or municipal code or
 3709 ordinance. Subpoenas may be served by the sheriff, marshal, or police department of the
 3710 county or by the police department of the municipality or by any other individual
 3711 authorized by Code Section ~~24-10-23~~ 24-13-24 to serve subpoenas;"

3712 **SECTION 52.**

3713 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
 3714 revising subsections (b) and (c) of Code Section 37-3-166, relating to treatment of clinical
 3715 records, when release is permitted, and scope of privileged communications, as follows:

3716 "(b) In connection with any hearing held under this chapter, any physician, including any
 3717 psychiatrist, or any psychologist who is treating or who has treated the patient shall be
 3718 authorized to give evidence as to any matter concerning the patient, including evidence as
 3719 to communications otherwise privileged under Code Section ~~24-9-21, 24-9-40~~, 24-5-501,
 3720 24-12-1, or 43-39-16.

3721 (c) Any disclosure authorized by this Code section or any unauthorized disclosure of
 3722 confidential or privileged patient information or communications shall not in any way
 3723 abridge or destroy the confidential or privileged character thereof, except for the purpose
 3724 for which such authorized disclosure is made. Any person making a disclosure authorized
 3725 by this Code section shall not be liable to the patient or any other person, notwithstanding
 3726 any contrary provision of Code Section ~~24-9-21, 24-9-40~~, 24-5-501, 24-12-1, or 43-39-16."

3727 **SECTION 53.**

3728 Said title is further amended by revising subsections (b) and (c) of Code Section 37-4-125,
 3729 relating to treatment of clinical records and scope of privileged communications, as follows:

3730 "(b) In connection with any hearing held under this chapter, any physician, including any
 3731 psychiatrist, or any psychologist who is treating or who has treated the client shall be
 3732 authorized to give evidence as to any matter concerning the client, including evidence as
 3733 to communications otherwise privileged under Code Section ~~24-9-21, 24-9-40~~, 24-5-501,
 3734 24-12-1, or 43-39-16.

3735 (c) Any disclosure authorized by this Code section or any unauthorized disclosure of
 3736 confidential or privileged client information or communications shall not in any way
 3737 abridge or destroy the confidential or privileged character thereof, except for the purpose
 3738 for which such authorized disclosure is made. Any person making a disclosure authorized
 3739 by subsection (a) of this Code section shall not be liable to the client or any other person,
 3740 notwithstanding any contrary provision of Code Section ~~24-9-21, 24-9-40~~, 24-5-501,
 3741 24-12-1, or 43-39-16."

3742 **SECTION 54.**

3743 Said title is further amended by revising subsections (b) and (c) of Code Section 37-7-166,
 3744 relating to maintenance, confidentiality, and release of clinical records and disclosure of
 3745 confidential or privileged patient information, as follows:

3746 "(b) In connection with any hearing held under this chapter, any physician, including any
 3747 psychiatrist, or any psychologist who is treating or who has treated the patient shall be
 3748 authorized to give evidence as to any matter concerning the patient, including evidence as
 3749 to communications otherwise privileged under Code Section ~~24-9-21, 24-9-40, 24-5-501,~~
 3750 24-12-1, or 43-39-16.

3751 (c) Any disclosure authorized by this Code section or any unauthorized disclosure of
 3752 confidential or privileged patient information or communications shall not in any way
 3753 abridge or destroy the confidential or privileged character thereof, except for the purpose
 3754 for which such authorized disclosure is made. Any person making a disclosure authorized
 3755 by this Code section shall not be liable to the patient or any other person, notwithstanding
 3756 any contrary provision of Code Section ~~24-9-21, 24-9-40, 24-5-501, 24-12-1, or 43-39-16.~~"

3757

SECTION 55.

3758 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
 3759 amended by revising subsection (b) of Code Section 40-2-74, relating to special license
 3760 plates for persons with disabilities, as follows:

3761 "(b) A hearing impaired person otherwise qualified under this subsection shall be eligible
 3762 to have issued to him or her a specially designated disabled person's license plate in
 3763 accordance with this Code section. As used in this Code section, 'hearing impaired person'
 3764 shall have the same meaning as defined in Code Section ~~24-9-101~~ 24-6-651, except that
 3765 the term 'hearing impaired person' shall not include any person who is not qualified for a
 3766 driver's license pursuant to Code Section 40-5-35, ~~relating to reports by physicians and~~
 3767 ~~vision specialists in connection with the issuance or revocation of drivers' licenses, as now~~
 3768 ~~or hereafter amended.~~ For purposes of this subsection, presentation of an identification
 3769 card for persons with disabilities issued pursuant to Article 8 of Chapter 5 of this title shall
 3770 constitute proof of hearing impairment."

3771

SECTION 56.

3772 Said title is further amended by revising paragraph (1) of subsection (d) of Code Section
 3773 40-5-2, relating to keeping of records of applications for licenses and information on
 3774 licensees, as follows:

3775 "(d)(1) The commissioner shall designate members of the department to be the official
 3776 custodians of the records of the department. No disclosure or release of operating records
 3777 or personal information shall be made without the signed written approval of a designated
 3778 custodian; except that such approval shall not be required for any release or disclosure
 3779 through the GeorgiaNet Division of the Georgia Technology Authority pursuant to the
 3780 signed written consent of the driver, provided that any such signed written consent shall

3781 be retained for a period of not less than four years by the party requesting the
 3782 information; and except that such approval shall not be required for any release or
 3783 disclosure of information made electronically through the GeorgiaNet Division of the
 3784 Georgia Technology Authority in accordance with a contract authorized by subparagraph
 3785 (c)(1)(B) of this Code section. The custodians may certify copies or compilations,
 3786 including extracts thereof, of the records of the department. ~~When so certified, such~~
 3787 ~~records shall be admissible as evidence in any civil or criminal proceeding as proof of the~~
 3788 ~~contents thereof."~~

3789 **SECTION 57.**

3790 Said title is further amended by revising subsection (d) of Code Section 40-5-58, relating to
 3791 habitual violators, as follows:

3792 "(d) Notwithstanding any contrary provisions of Code Section 17-7-95 or 24-4-410, for the
 3793 purposes of this Code section, any plea of nolo contendere entered and accepted after
 3794 January 1, 1976, shall be considered a conviction."

3795 **SECTION 58.**

3796 Said title is further amended by revising subsection (d) of Code Section 40-6-10, relating to
 3797 insurance requirements for operation of motor vehicles generally, as follows:

3798 "(d) Except for vehicles insured under a fleet policy as defined in Code Section 40-2-137
 3799 or under a plan of self-insurance approved by the Commissioner of Insurance, insurance
 3800 coverage information from records of the department shall be prima-facie evidence of the
 3801 facts stated therein and shall be admissible as evidence in accordance with Code Section
 3802 ~~24-3-17~~ 24-9-924 for the purposes of this Code section."

3803 **SECTION 59.**

3804 Said title is further amended by revising paragraph (1) of subsection (d) of Code Section
 3805 40-6-11, relating to insurance requirements for operation of motorcycles, as follows:

3806 "(d)(1) Insurance coverage information from records of the department shall be
 3807 prima-facie evidence of the facts stated therein and shall be admissible as evidence in
 3808 accordance with Code Section ~~24-3-17~~ 24-9-924 for the purposes of this Code section."

3809 **SECTION 60.**

3810 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
 3811 by revising subsection (c) of Code Section 42-5-52.2, relating to testing of prison inmates for
 3812 HIV, as follows:

3813 "(c) Each person tested as provided in subsection (b) of this Code section shall be notified
 3814 by the department in writing of the results of such testing prior to his or her release. Prior
 3815 to the release of any person testing positive for HIV, the appropriate information as
 3816 required by Code Sections ~~24-9-47~~ 24-12-21 and 31-22-9.2 or other law shall be provided
 3817 by the department to the Department of Community Health. Prior to the release of any
 3818 person testing positive for HIV, the department shall also provide to such person in writing
 3819 contact information regarding medical, educational, and counseling services available
 3820 through the Department of Community Health. Any person testing positive for HIV shall
 3821 be provided instruction relating to living with HIV, the prevention of the spread of such
 3822 virus, and the legal consequences of infecting unknowing partners."

3823

SECTION 61.

3824 Said title is further amended by revising Code Section 42-6-4, relating to the effect of failure
 3825 to meet time limit for trial after delivery of inmate pursuant to Code Section 24-10-60, as
 3826 follows:

3827 "42-6-4.

3828 If an inmate is not brought to trial upon a pending indictment or accusation within two
 3829 terms of court after delivery of the inmate to the sheriff or a deputy sheriff pursuant to
 3830 subsection (a) of Code Section ~~24-10-60~~ 24-13-60, provided no continuance has been
 3831 granted, all detainers based upon the pending indictments or accusations shall be stricken
 3832 and dismissed from the records of the department."

3833

SECTION 62.

3834 Said title is further amended by revising subsection (a) of Code Section 42-6-5, relating to
 3835 the temporary custody of inmate requesting disposition of pending indictment or accusation,
 3836 as follows:

3837 "(a) In response to the request of an inmate for final disposition of any pending indictment
 3838 or accusation made pursuant to Code Section 42-6-3 or pursuant to an order of a court
 3839 entered pursuant to subsection (a) of Code Section ~~24-10-60~~ 24-13-60, the department shall
 3840 offer to deliver temporary custody of the inmate to the sheriff or a deputy sheriff of the
 3841 county in which the indictment or accusation is pending against the inmate. The judge of
 3842 the court in which the proceedings are pending is authorized to and shall issue an ex parte
 3843 order directed to the department requiring the delivery of the inmate to the sheriff or a
 3844 deputy sheriff of the county in which the trial is to be held."

3845 **SECTION 63.**

3846 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
 3847 is amended by revising paragraph (5) of subsection (b) of Code Section 43-3-24, relating to
 3848 issuance of permits to practice accountancy, as follows:

3849 "(5) An individual qualifying for the practice privilege under paragraph (1) of this
 3850 subsection may provide expert witness services in this state and shall be deemed to be in
 3851 compliance with ~~paragraph (1) of subsection (c) of Code Section 24-9-67.1~~ 24-7-702 for
 3852 purposes of such services."

3853 **SECTION 64.**

3854 Said title is further amended by revising Code Section 43-6-6, relating to The Georgia
 3855 Auctioneers Commission seal and receipt of copies of records and papers as evidence, as
 3856 follows:

3857 "43-6-6.

3858 The commission shall adopt a seal, which may be either an engraved or ink stamp seal,
 3859 with the words 'State Auctioneers Commission, State of Georgia' and such other devices
 3860 as the commission may desire included thereon, by which it shall authenticate the acts of
 3861 the commission. ~~Copies of all records and papers in the office of the commission certified~~
 3862 ~~by the signature of the commission chairman and the seal of the commission shall be~~
 3863 ~~received in evidence in all cases equally and with like effect as the originals."~~

3864 **SECTION 65.**

3865 Said title is further amended by revising paragraph (11) of subsection (a) of Code Section
 3866 43-9-12, relating to The Georgia Board of Chiropractic Examiners' refusal, suspension, or
 3867 revocation of licenses, as follows:

3868 "(11)(A) Become unable to practice chiropractic with reasonable skill and safety to
 3869 patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other
 3870 type of material, or as a result of any mental or physical condition.

3871 (B) In enforcing this paragraph, the board may, upon reasonable grounds, require a
 3872 licensee or applicant to submit to a mental or physical examination by licensed health
 3873 care providers designated by the board. The results of such examination shall be
 3874 admissible in any hearing before the board, notwithstanding any claim of privilege
 3875 under a contrary rule of law or statute, including, but not limited to, Code Section
 3876 ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of practicing
 3877 chiropractic in this state or who shall file an application for a license to practice
 3878 chiropractic in this state shall be deemed to have given his or her consent to submit to
 3879 such mental or physical examination and to have waived all objections to the

3880 admissibility of the results in any hearing before the board, upon the grounds that the
 3881 same constitutes a privileged communication. If a licensee or applicant fails to submit
 3882 to such an examination when properly directed to do so by the board, unless such
 3883 failure was due to circumstances beyond his or her control, the board may enter a final
 3884 order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant
 3885 who is prohibited from practicing chiropractic under this paragraph shall at reasonable
 3886 intervals be afforded an opportunity to demonstrate to the board that he or she can
 3887 resume or begin the practice of chiropractic with reasonable skill and safety to patients.
 3888 (C) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain
 3889 any and all records relating to the mental or physical condition of a licensee or
 3890 applicant, including psychiatric records; and such records shall be admissible in any
 3891 hearing before the board, notwithstanding any privilege under a contrary rule of law or
 3892 statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person
 3893 who shall accept the privilege of practicing chiropractic in this state or who shall file
 3894 an application to practice chiropractic in this state shall be deemed to have given his or
 3895 her consent to the board's obtaining any such records and to have waived all objections
 3896 to the admissibility of such records in any hearing before the board, upon the grounds
 3897 that the same constitutes a privileged communication.
 3898 (D) If any licensee or applicant could, in the absence of this paragraph, invoke a
 3899 privilege to prevent the disclosure of the results of the examination provided for in
 3900 subparagraph (B) of this paragraph or the records relating to the mental or physical
 3901 condition of such licensee or applicant obtained pursuant to subparagraph (C) of this
 3902 paragraph, all such information shall be received by the board in camera and shall not
 3903 be disclosed to the public, nor shall any part of the record containing such information
 3904 be used against any licensee or applicant in any other type of proceeding."

3905 **SECTION 66.**

3906 Said title is further amended by revising Code Section 43-11-12, relating to public inspection
 3907 of the Georgia Board of Dentistry's records, as follows:

3908 "43-11-12.

3909 It shall be the duty of the division director to keep at his or her office the minutes of the
 3910 board, together with all the books and records of the board, which books and records shall,
 3911 except as provided in subsection (k) of Code Section 43-1-2, be public records open to
 3912 inspection by the public except on Sundays and legal holidays. ~~A copy of all or any part
 3913 of any record or book certified by the division director, with the seal of the board attached,
 3914 shall be primary evidence in any court, and it shall be the duty of the division director to
 3915 furnish to any person making application therefor a copy of any part or all of any record~~

3916 ~~or book of the board upon the applicant's paying a fee prescribed by the division director.~~
 3917 ~~All of such copies shall be certified by the division director and be under the seal of the~~
 3918 ~~board."~~

3919 **SECTION 67.**

3920 Said title is further amended by revising Code Section 43-18-8, relating to official records
 3921 and affidavits of the State Board of Registration for Professional Geologists as evidence, as
 3922 follows:

3923 "43-19-8.

3924 ~~All official records of the board, or affidavits by the division director as to the content of~~
 3925 ~~such records, shall be prima-facie evidence of all matters required to be kept therein~~
 3926 Reserved."

3927 **SECTION 68.**

3928 Said title is further amended by revising Code Section 43-23-3, relating to the seal of the
 3929 Georgia Board of Landscape Architects and copies of records and papers as evidence, as
 3930 follows:

3931 "43-23-3.

3932 (a) The board shall adopt a seal, which may be either an engraved or an ink stamped seal,
 3933 with the words 'Board of Landscape Architects, State of Georgia' or such other device as
 3934 the board may desire included thereon, by which it shall authenticate the acts of the board.

3935 (b) ~~Copies of all records and papers in the office of the board, certified by the signature~~
 3936 ~~of the chairman of the board, shall be received in evidence in all cases equally and with like~~
 3937 ~~effect as the originals."~~

3938 **SECTION 69.**

3939 Said title is further amended by revising Code Section 43-28-6, relating to service of process
 3940 and documents on division director and records of the State Board of Occupational Therapy
 3941 as prima-facie evidence, as follows:

3942 "43-28-6.

3943 (a) All legal process and all documents required by law to be served upon or filed with the
 3944 board shall be served upon or filed with the division director at his or her office.

3945 (b) ~~All official records of the board or affidavits by the division director certifying the~~
 3946 ~~content of such records shall be prima-facie evidence of all matters required to be kept~~
 3947 ~~therein."~~

3948 **SECTION 70.**

3949 Said title is further amended by revising Code Section 43-29-4, relating to the State Board
3950 of Dispensing Opticians' records and seal, as follows:

3951 "43-29-4.

3952 (a) The board shall have an official seal and shall keep a record of its proceedings and a
3953 register of persons whose licenses have been revoked.

3954 (b) The records of the board shall be open to public inspection, and it shall keep on file all
3955 examination papers for a period of 90 days after each examination. ~~A transcript of an entry~~
3956 ~~in such records, certified by the division director under the seal of the board, shall be~~
3957 ~~evidence of the facts stated therein."~~

3958 **SECTION 71.**

3959 Said title is further amended by revising Code Section 43-33-9, relating to the State Board
3960 of Physical Therapy's records as prima-facie evidence, as follows:

3961 "43-33-9.

3962 The division director shall be secretary of the board and shall perform such other
3963 administrative duties as may be prescribed by the board. In a contested case, the division
3964 director on behalf of the board shall have the power to subpoena, throughout ~~the~~ this state,
3965 witnesses, designated documents, papers, books, accounts, letters, photographs, objects,
3966 or other tangible things. All legal process and all documents required by law to be served
3967 upon or filed with the board shall be served upon or filed with the division director at his
3968 or her office in Atlanta. ~~All official records of the board or affidavits by the division~~
3969 ~~director certifying the content of such records shall be prima-facie evidence of all matters~~
3970 ~~required to be kept therein."~~

3971 **SECTION 72.**

3972 Said title is further amended by revising paragraph (2) of subsection (a) of Code Section
3973 43-33-18, relating to refusal to grant or restore licenses, as follows:

3974 "(2) Displayed an inability or has become unable to practice as a physical therapist or as
3975 a physical therapist assistant with reasonable skill and safety to patients by reason of
3976 illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a
3977 result of any mental or physical condition:

3978 (A) In enforcing this paragraph the board may, upon reasonable grounds, require a
3979 licensee or applicant to submit to a mental or physical examination by an appropriate
3980 practitioner of the healing arts designated by the board. The expense of such mental or
3981 physical examination shall be borne by the licensee or applicant. The results of such
3982 examination shall be admissible in any hearing before the board, notwithstanding any

3983 claim of privilege under a contrary rule of law or statute, including, but not limited to
 3984 Code Section ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of
 3985 practicing physical therapy in this state or who shall file an application for a license to
 3986 practice physical therapy in this state shall be deemed to have given his or her consent
 3987 to submit to such mental or physical examination and to have waived all objections to
 3988 the admissibility of the results in any hearing before the board upon the grounds that
 3989 the same constitutes a privileged communication. If a licensee or applicant fails to
 3990 submit to such an examination when properly directed to do so by the board, unless
 3991 such failure was due to circumstances beyond his or her control, the board may enter
 3992 a final order upon proper notice, hearing, and proof of such refusal. Any licensee or
 3993 applicant who is prohibited from practicing physical therapy under this paragraph shall
 3994 at reasonable intervals be afforded an opportunity to demonstrate to the board that he
 3995 or she can resume or begin the practice of physical therapy with reasonable skill and
 3996 safety to patients;

3997 (B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain
 3998 any and all records relating to the mental or physical condition of a licensee or
 3999 applicant, including psychiatric records; and such records shall be admissible in any
 4000 hearing before the board, notwithstanding any privilege under a contrary rule of law or
 4001 statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person
 4002 who shall accept the privilege of practicing physical therapy in this state or who shall
 4003 file an application to practice physical therapy in this state shall be deemed to have
 4004 given his or her consent to the board's obtaining any such records and to have waived
 4005 all objections to the admissibility of such records in any hearing before the board upon
 4006 the grounds that the same constitute a privileged communication; and

4007 (C) If any licensee or applicant could, in the absence of this paragraph, invoke a
 4008 privilege to prevent the disclosure of the results of the examination provided for in
 4009 subparagraph (A) of this paragraph or the records relating to the mental or physical
 4010 condition of such licensee or applicant obtained pursuant to subparagraph (B) of this
 4011 paragraph, all such information shall be received by the board in camera and shall not
 4012 be disclosed to the public, nor shall any part of the record containing such information
 4013 be used against any licensee or applicant in any other type of proceeding;"

4014 **SECTION 73.**

4015 Said title is further amended by revising paragraph (13) of subsection (a) of Code Section
 4016 43-34-8, relating to the Georgia Composite Medical Board's authority to refuse license or
 4017 discipline physicians, as follows:

4018 “(13) Become unable to practice pursuant to this chapter with reasonable skill and safety
4019 to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other
4020 type of material, or as a result of any mental or physical condition:

4021 (A) In enforcing this paragraph the board may, upon reasonable grounds, require a
4022 licensee, certificate holder, permit holder, or applicant to submit to a mental or physical
4023 examination by physicians designated by the board. The expense of this examination
4024 shall be borne by the licensee, certificate holder, or permit holder or applicant. The
4025 results of such examination shall be admissible in any hearing before the board,
4026 notwithstanding any claim of privilege under a contrary rule of law or statute,
4027 including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person who shall
4028 accept the privilege of practicing a profession regulated under this chapter or who shall
4029 file an application for a license to practice a profession regulated under this chapter in
4030 this state shall be deemed to have given his or her consent to submit to such mental or
4031 physical examination and to have waived all objections to the admissibility of the
4032 results in any hearing before the board, upon the grounds that the same constitutes a
4033 privileged communication. If a licensee, certificate holder, or permit holder or
4034 applicant fails to submit to such an examination when properly directed to do so by the
4035 board, unless such failure was due to circumstances beyond his or her control, the board
4036 may enter a final order upon proper notice, hearing, and proof of such refusal. Any
4037 licensee, certificate holder, permit holder, or applicant who is prohibited from
4038 practicing pursuant to this chapter under this paragraph shall at reasonable intervals be
4039 afforded an opportunity to demonstrate to the board that he or she can resume or begin
4040 practice pursuant to this chapter with reasonable skill and safety to patients;

4041 (B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain
4042 any and all records relating to the mental or physical condition of a licensee, certificate
4043 holder, or permit holder or applicant, including psychiatric records; and such records
4044 shall be admissible in any hearing before the board, notwithstanding any privilege
4045 under a contrary rule of law or statute, including, but not limited to, Code Section
4046 ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of practicing pursuant
4047 to this chapter in this state or who shall file an application to practice pursuant to this
4048 chapter in this state shall be deemed to have given his or her consent to the board's
4049 obtaining any such records and to have waived all objections to the admissibility of
4050 such records in any hearing before the board, upon the grounds that the same constitute
4051 a privileged communication; and

4052 (C) If any licensee, certificate holder, or permit holder or applicant could, in the
4053 absence of this paragraph, invoke a privilege to prevent the disclosure of the results of
4054 the examination provided for in subparagraph (A) of this paragraph or the records

4055 relating to the mental or physical condition of such licensee, certificate holder, or
 4056 permit holder or applicant obtained pursuant to subparagraph (B) of this paragraph, all
 4057 such information shall be received by the board in camera and shall not be disclosed to
 4058 the public, nor shall any part of the record containing such information be used against
 4059 any licensee, certificate holder, or permit holder or applicant in any other type of
 4060 proceeding;"

4061 **SECTION 74.**

4062 Said title is further amended by revising subsection (a) of Code Section 43-40-6, relating to
 4063 the seal and records of the Georgia Real Estate Commission, as follows:

4064 "(a) The commission shall adopt a seal, which may be either an engraved or ink stamp seal,
 4065 with the words 'State Real Estate Commission, State of Georgia,' and such other device as
 4066 the commission may desire included thereon, by which it shall authenticate the acts of the
 4067 commission. ~~Copies of all records and papers in the office of the commission, certified by~~
 4068 ~~the signature of the real estate commissioner or the commissioner's designee and the seal~~
 4069 ~~of the commission, shall be received in evidence in all cases equally and with like effect~~
 4070 ~~as the originals."~~

4071 **SECTION 75.**

4072 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
 4073 revising Code Section 44-2-5, relating to recording execution and deed after sheriff's sale and
 4074 evidence of execution where original is lost, as follows:

4075 "44-2-5.

4076 A purchaser at a sheriff's sale may have the execution under which the property was sold
 4077 recorded with his or her deed together with all the entries on the execution. ~~In the event~~
 4078 ~~of the loss or destruction of the original execution, a copy of the record shall be admitted~~
 4079 ~~in evidence."~~

4080 **SECTION 76.**

4081 Said title is further amended by revising Code Section 44-2-20, relating to recorded affidavits
 4082 relating to land as notice of facts cited therein and the admissibility of such affidavits in
 4083 evidence, as follows:

4084 "44-2-20.

4085 (a) Recorded affidavits shall be notice of the facts therein recited, whether taken at the
 4086 time of a conveyance of land or not, where such affidavits show:

4087 (1) The relationship of parties or other persons to conveyances of land;

- 4088 (2) The relationship of any parties to any conveyance with other parties whose names are
 4089 shown in the chain of title to lands;
- 4090 (3) The age or ages of any person or persons connected with the chain of title;
- 4091 (4) Whether the land embraced in any conveyance or any part of such land or right
 4092 therein has been in the actual possession of any party or parties connected with the chain
 4093 of title;
- 4094 (5) The payment of debts of an unadministered estate;
- 4095 (6) The fact or date of death of any person connected with such title;
- 4096 (7) Where such affidavits relate to the identity of parties whose names may be shown
 4097 differently in chains of title;
- 4098 (8) Where such affidavits show the ownership or adverse possession of lands or that
 4099 other persons have not owned such lands nor been in possession of same; or
- 4100 (9) Where such affidavits state any other fact or circumstance affecting title to land or
 4101 any right, title, interest in, or lien or encumbrance upon land.

4102 Any such affidavits may be made by any person, whether connected with the chain of title
 4103 or not.

4104 ~~(b) In any litigation over any of the lands referred to and described in any of the affidavits
 4105 referred to in subsection (a) of this Code section in any court in this state or in any
 4106 proceedings in any such court involving the title to such lands wherein the facts recited in
 4107 such affidavits may be material, the affidavits or certified copies of the record thereof shall
 4108 be admissible in evidence and there shall be a rebuttable presumption that the statements
 4109 in said affidavits are true. The affidavits or certified copies thereof shall only be admissible
 4110 as evidence in the event the parties making the affidavits are deceased; they are
 4111 nonresidents of the state; their residences are unknown to the parties offering the affidavits;
 4112 or they are too old, infirm, or sick to attend court Reserved.~~

4113 (c) Affidavits referred to in ~~subsections~~ subsection (a) ~~and (b)~~ of this Code section shall
 4114 be filed by the clerk of the superior court of the county where the land is located and shall
 4115 contain a caption referring to the current owner and to a deed or other recorded instrument
 4116 in the chain of title of the affected land. The clerk of the superior court shall record such
 4117 affidavits, shall enter on the deed or other recorded instrument so referred to the book and
 4118 page number on which such affidavit may be recorded, and shall index same in the name
 4119 of the purported owner as shown by such caption in both grantor and grantee indexes in
 4120 deed records as conveyances of lands are recorded and indexed; and ~~he~~ the clerk shall
 4121 receive the same compensation therefor as for recording deeds to lands."

4122 **SECTION 77.**

4123 Said title is further amended by revising Code Section 44-2-23, relating to when deed serves
4124 as evidence, as follows:

4125 "44-2-23.

4126 ~~A recorded deed shall be admitted in evidence in any court without further proof unless the~~
4127 ~~maker of the deed, one of his heirs, or the opposite party in the action files an affidavit that~~
4128 ~~the deed is a forgery to the best of his knowledge and belief. Upon the filing of the~~
4129 ~~affidavit, the genuineness of the alleged deed shall become an issue to be determined in the~~
4130 ~~action Reserved.~~"

4131 **SECTION 78.**

4132 Said title is further amended by revising Code Section 44-2-101, relating to referral of case
4133 to examiner, as follows:

4134 "44-2-101.

4135 Upon the filing of a petition as provided in this article, the clerk shall at once notify the
4136 judge who shall refer the action to one of the general examiners or to a special examiner.
4137 It shall then become the duty of the examiner to make up a preliminary report containing
4138 an abstract of the title to the land from public records and all other evidence of a
4139 trustworthy nature that can reasonably be obtained by ~~him~~ the examiner, which abstract
4140 shall contain:

- 4141 (1) Extracts from the records and other matters referred to therein which are complete
4142 enough to enable the court to decide the questions involved;
- 4143 (2) A statement of the facts relating to the possession of the lands; and
- 4144 (3) The names and addresses, so far as the examiner is able to ascertain, of all persons
4145 interested in the land as well as all adjoining owners showing their several apparent or
4146 possible interests and indicating upon whom and in what manner process should be
4147 served or notices given in accordance with this article.

4148 The preliminary report of the examiner shall be filed in the office of the clerk of the
4149 superior court on or before the return day of the court as stated in the process unless the
4150 time for filing the report is extended by the court. ~~The report shall be prima-facie evidence~~
4151 ~~of the contents thereof."~~

4152 **SECTION 79.**

4153 Said title is further amended by revising Code Section 44-4-3, relating to the duty of
4154 surveyors and processioners, as follows:

4155 "44-4-3.

4156 It shall be the duty of the county surveyor and the processioners to take all due precautions
 4157 to arrive at the true lines and to trace out and plainly mark the same. The surveyor shall
 4158 make out and certify a plat of the true lines and deliver a copy thereof to the applicant; and,
 4159 in all future boundary disputes with any owner of adjoining lands who had due notice of
 4160 the processioning, the certified plat and the lines so marked shall be prima facie correct;
 4161 ~~and the certified plat shall be admissible in evidence without further proof."~~

4162 **SECTION 80.**

4163 Said title is further amended by revising Code Section 44-4-6, relating to general reputation
 4164 as evidence, as follows:

4165 "44-4-6.

4166 ~~General reputation in the neighborhood shall be evidence as to ancient landmarks of more~~
 4167 ~~than 30 years' standing.~~ Acquiescence for seven years by acts or declarations of adjoining
 4168 landowners shall establish a dividing line."

4169 **SECTION 81.**

4170 Said title is further amended by revising Code Section 44-5-45, relating to when ancient deed
 4171 admissible without proof of execution, as follows:

4172 "44-5-45.

4173 ~~A deed more than 30 years old which, upon inspection, has the appearance of genuineness~~
 4174 ~~and which comes from the proper custody is admissible in evidence without proof of~~
 4175 ~~execution if possession of the property has been consistent with such deed Reserved."~~

4176 **SECTION 82.**

4177 Said title is further amended by revising Code Section 44-13-11, relating to approval of
 4178 application and transmittal of copy of exempted real property to other counties, as follows:

4179 "44-13-11.

4180 If, at the time and place appointed for passing upon the application, no objection is raised
 4181 by any creditor of the applicant, the judge of the probate court shall endorse upon the
 4182 schedule and upon the plat: 'Approved this the ____ day of _____, _____,' filling the
 4183 blanks, and shall sign the schedule and plat officially and hand ~~them~~ such application to the
 4184 clerk of the superior court of ~~his~~ the clerk's county; and, when land out of ~~his~~ the clerk's
 4185 county is exempted, the judge shall transmit a certified copy of the exempted real property
 4186 to the clerk of the superior court of each county in which exempted land is located. Each
 4187 clerk of the superior court of a county in which exempted land is located shall record the

4188 exempted real property in a book to be kept for that purpose ~~in his office, which record or~~
 4189 ~~a certified transcript thereof shall be competent evidence in all the courts of this state."~~

4190 **SECTION 83.**

4191 Said title is further amended by revising Code Section 44-14-38, relating to admission of
 4192 mortgages into evidence, as follows:

4193 "44-14-38.

4194 ~~When duly executed and recorded, mortgages shall be admitted into evidence under the~~
 4195 ~~same rules as recorded deeds Reserved."~~

4196 **SECTION 84.**

4197 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
 4198 is amended by revising Code Section 45-9-1, relating to general provisions and disclosure
 4199 or insurance or indemnification in legal actions, as follows:

4200 "45-9-1.

4201 (a) In addition to any other compensation which may be paid to an officer, official, or
 4202 employee of any agency, board, bureau, commission, department, or authority of the
 4203 executive, judicial, or legislative branch of government of this state, each such agency,
 4204 board, bureau, commission, department, or authority is authorized, in its discretion, to
 4205 purchase policies of liability insurance or contracts of indemnity or to formulate sound
 4206 programs of self-insurance utilizing funds available to such agency, board, bureau,
 4207 commission, department, or authority, insuring or indemnifying such officers, officials, or
 4208 employees to the extent that they are not immune from liability against personal liability
 4209 for damages arising out of the performance of their duties or in any way connected
 4210 therewith. Such policies of liability insurance, contracts of indemnity, or programs of
 4211 self-insurance may also provide for reimbursement to an officer, official, or employee of
 4212 any agency, board, bureau, commission, department, or authority of ~~the~~ this state for
 4213 reasonable legal fees and other expenses incurred in the successful defense of any criminal
 4214 proceeding, including, but not limited to, any criminal cause of action, suit, investigation,
 4215 subpoena, warrant, request for documentation or property, or threat of such action whether
 4216 formal or informal where such action arises out of the performance of his or her official
 4217 duties. In addition, in the case of an officer, official, or employee who is required to
 4218 maintain a professional license, such reimbursement may also be provided for legal fees
 4219 and other expenses so incurred in the successful defense of a charge arising out of the
 4220 performance of his or her official duties in proceedings before a professional licensing
 4221 board, disciplinary board or commission, or other similar body. Legal fees and other
 4222 expenses shall be subject to adjustment by and the approval of the Attorney General.

4223 (b) Such agencies, boards, bureaus, commissions, departments, or authorities may expend
 4224 federal and state or other available funds for such purposes. The amount of such insurance
 4225 or indemnity shall also be in the discretion of such agency, board, bureau, commission,
 4226 department, or authority.

4227 (c) For the purpose of this article, the term 'agency' shall specifically include, but shall not
 4228 be limited to, public retirement systems of state-wide application established by the laws
 4229 of this state, but shall not include counties or municipalities; provided, however, that the
 4230 employees of community service boards, county departments of health, and county
 4231 departments of family and children services as well as the members of the boards of said
 4232 departments shall be considered to be state employees or officials for the purpose of this
 4233 article. In order to facilitate the administration of liability coverage or other insurance
 4234 coverages provided the community service boards, the Department of Behavioral Health
 4235 and Developmental Disabilities shall designate a central office which shall be responsible
 4236 for obtaining, submitting, and collecting all underwriting information and insurance
 4237 premiums requested and assessed by the Department of Administrative Services. In order
 4238 to facilitate the administration of liability coverage or other insurance coverages provided
 4239 county departments of family and children services, the Department of Human Services
 4240 shall designate a central office which shall be responsible for obtaining, submitting, and
 4241 collecting all underwriting information and insurance premiums requested and assessed by
 4242 the Department of Administrative Services. In order to facilitate the administration of
 4243 liability coverage or other insurance coverages provided county departments of health, the
 4244 Department of Community Health shall designate a central office which shall be
 4245 responsible for obtaining, submitting, and collecting all underwriting information and
 4246 insurance premiums requested and assessed by the Department of Administrative Services.
 4247 ~~(d) The existence of such insurance or indemnification shall not be disclosed or suggested~~
 4248 ~~in any action brought against such individual."~~

4249 **SECTION 85.**

4250 Said title is further amended by revising Code Section 45-9-20, relating to authorization of
 4251 purchase of insurance, as follows:

4252 "45-9-20.

4253 In addition to any other compensation which may be paid to members of the governing
 4254 bodies of municipalities, counties, and other public bodies, and to supervisors,
 4255 administrators, employees, or other elected or appointed public officers, each municipality,
 4256 county, and other public body of this state is authorized, in its discretion, to purchase
 4257 policies of liability insurance or contracts of indemnity insuring or indemnifying the
 4258 members of such governing bodies and such supervisors, administrators, employees, or

4259 other elected or appointed officers against personal liability for damages arising out of the
 4260 performance of their duties or in any way connected therewith, whether based upon
 4261 negligence, violation of contract rights, or violation of civil, constitutional, common law,
 4262 or other statutory rights, whether state, federal, or local. Such municipalities, counties, and
 4263 other public bodies may expend state, federal, and local funds for such purposes. The
 4264 amount of such insurance or indemnity shall also be in the discretion of the governing body
 4265 of such municipality, county, or other public body. No action shall be maintained against
 4266 the person or company issuing such insurance or contracting for such indemnity until final
 4267 judgment has first been entered against the individual covered by such policy or contract;
 4268 ~~and the existence of such insurance or indemnity shall not be disclosed or suggested in any~~
 4269 ~~action brought against such individual."~~

4270

SECTION 86.

4271 Said title is further amended by revising Code Section 45-14-5, relating to the Commissioner
 4272 of Insurance, Safety Fire Commissioner, Industrial Loan Commissioner, and the Comptroller
 4273 General's seal and sealed copies treated as originals, as follows:

4274 "45-14-5.

4275 The Commissioner of Insurance, Safety Fire Commissioner, Industrial Loan
 4276 Commissioner, and the Comptroller General shall have an official seal for each office of
 4277 such design as he or she shall select with the approval of the Governor. ~~Every certificate~~
 4278 ~~and other document or paper executed by the Commissioner of Insurance, Safety Fire~~
 4279 ~~Commissioner, Industrial Loan Commissioner, or the Comptroller General in the pursuance~~
 4280 ~~of any authority conferred upon that office by law and sealed with the seal of that office~~
 4281 ~~and all copies or photographic copies of papers certified by him and authenticated by said~~
 4282 ~~seal shall in all cases be evidence 'in equal and like manner' as the original thereof and in~~
 4283 ~~all cases be primary evidence of the contents of the original and shall be admissible in any~~
 4284 ~~court in this state."~~

4285

SECTION 87.

4286 Said title is further amended by revising Code Section 45-16-43, relating to receipt as
 4287 evidence of records, findings, and reports of medical examiners' inquiries, as follows:

4288 "45-16-43.

4289 ~~Reports of medical examiners' inquiries performed as provided in this article and copies~~
 4290 ~~of records, photographs, laboratory findings, and reports in the office of the director of the~~
 4291 ~~division, when duly attested by said director, shall be received as evidence in any court or~~
 4292 ~~other proceeding for any purpose for which the original could be received without any~~
 4293 ~~proof of the official character of the person whose name is signed thereto Reserved."~~

4294

SECTION 88.

4295 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
 4296 transportation, is amended by revising Code Section 46-2-53, relating to reports, rate
 4297 schedules, orders, rules, or regulations of commission as admissible evidence in court
 4298 proceedings, as follows:

4299 "46-2-53.

4300 ~~The printed reports of the commission, published by its authority, shall be admissible as~~
 4301 ~~evidence in any court in this state without further proof. The schedules of rates made by~~
 4302 ~~the commission, and any order passed or rule or regulation prescribed by the commission,~~
 4303 ~~shall be admissible in evidence in any court in this state upon the certificate of the secretary~~
 4304 ~~of the commission~~ Reserved."

4305

SECTION 89.

4306 Said title is further amended by revising Code Section 46-3-175, relating to receipt of
 4307 certificates and certified copies in evidence, as follows:

4308 "46-3-175.

4309 ~~(a) All certificates issued by the Secretary of State in accordance with this article and all~~
 4310 ~~copies of documents filed in his office in accordance with this article, when certified by~~
 4311 ~~him, shall be taken and received in all courts, public offices, and official bodies as~~
 4312 ~~prima-facie evidence of the facts stated therein. A certificate by the Secretary of State~~
 4313 ~~under the seal of his office as to the existence or nonexistence of facts relating to electric~~
 4314 ~~membership corporations or foreign electric cooperatives shall be taken and received in all~~
 4315 ~~courts, public offices, and official bodies as prima-facie evidence of the existence or~~
 4316 ~~nonexistence of the facts stated therein.~~

4317 ~~(b)~~ The Secretary of State, at any time, upon the request of any person, shall make and
 4318 certify additional copies of any document filed with his or her office and of the certificate,
 4319 if any, issued by the Secretary of State in connection with the filing of the document, under
 4320 this article, upon payment to ~~him~~ the Secretary of State of the fee provided for in Code
 4321 Section 46-3-502."

4322

SECTION 90.

4323 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 4324 amended by revising Code Section 48-2-14, relating to the state revenue commissioner's
 4325 official seal, as follows:

4326 "48-2-14.

4327 The commissioner shall have an official seal of such device as he or she shall select,
 4328 subject to the approval of the Governor. ~~Any certificate or other legal document or paper~~

4329 ~~executed by the commissioner in the exercise of any authority conferred upon him by law,~~
 4330 ~~which paper is sealed with the seal of his office, and all copies or photographic copies of~~
 4331 ~~papers certified by him and authenticated by the seal shall be evidence equally in all cases~~
 4332 ~~and, in like manner as the original of the document or paper, shall be primary evidence in~~
 4333 ~~all cases of the contents of the original, and shall be admissible in any court in this state."~~

4334 **SECTION 91.**

4335 Said title is further amended by revising subsection (d) of Code Section 48-5-138, relating
 4336 to the cashbook to be kept by tax collectors and tax commissioners, as follows:

4337 "(d) The tax collector or tax commissioner shall make and file an accounting as required
 4338 by Code Section 48-5-154. The record book shall be preserved by the tax collector or tax
 4339 commissioner in the tax collector's or tax commissioner's office. ~~The record book or a~~
 4340 ~~transcript of the record book, when properly authenticated, shall be admitted in evidence~~
 4341 ~~in courts of this state as evidence of the payment of taxes.~~ The commissioner shall furnish
 4342 the tax collectors and tax commissioners the book required pursuant to this Code section
 4343 at the state's expense."

4344 **SECTION 92.**

4345 Code Section 49-5-183.1 of the Official Code of Georgia Annotated, relating to notice to
 4346 alleged child abuser of classification and procedure, is amended by revising subsection (i)
 4347 as follows:

4348 "(i) No child under the age of 14 shall be compelled to appear to testify at any hearing held
 4349 pursuant to this Code section. If a child under the age of 14 testifies voluntarily, such
 4350 testimony shall be given in compliance with procedures analogous to those contained in
 4351 Code Section 17-8-55. Nothing in this article shall prohibit introducing a child's statement
 4352 in a hearing held pursuant to this Code section if the statement meets the criteria of Code
 4353 Section ~~24-3-16~~ 24-8-820."

4354 **SECTION 93.**

4355 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
 4356 by revising Code Section 50-5A-4, relating to bond to be recorded and filed and certified
 4357 copy is admissible in evidence, as follows:

4358 "50-5A-4.

4359 The bond of the director, when duly executed and approved, shall be recorded in the
 4360 Secretary of State's office and filed in the office of the Governor. ~~A copy of the bond,~~
 4361 ~~when certified by one of the Governor's secretaries under the seal of the office of the~~

4362 ~~Governor, or a certified copy taken from the records of the Secretary of State's office shall~~
 4363 ~~be received in evidence in any court in lieu of the original."~~

4364 **SECTION 94.**

4365 Said title is further amended by revising Code Section 50-18-96, relating to copies of records
 4366 as primary evidence, as follows:

4367 "50-18-96.

4368 ~~Photostatic copies of records produced from microfilm and print-out copies of computer~~
 4369 ~~records shall be received in any court of this state as primary evidence of the recitals~~
 4370 ~~contained therein Reserved."~~

4371 **SECTION 95.**

4372 Code Section 52-6-8 of the Official Code of Georgia Annotated, relating to keeping of
 4373 records by the Board of Pilotage Commissioners, is amended as follows:

4374 "52-6-8.

4375 The commissioners shall preserve in a neatly bound book a record of all their acts and of
 4376 all the rules and regulations adopted by them for the direction and government of pilots.

4377 The commissioners ~~They~~ shall designate one of their number as ~~chairman~~ chairperson and
 4378 cause a record thereof to be made. The commissioners ~~They~~ shall also preserve upon their
 4379 records a list of the names of all persons appointed pilots by them, as well as a list of the
 4380 names of those whose licenses have been suspended or revoked or who have been retired.
 4381 All persons interested shall have access to and be permitted to have ~~copies~~ duplicates of
 4382 the such records; ~~and copies thereof certified by the chairman or secretary shall be~~
 4383 ~~presumptive evidence of the facts therein stated."~~

4384 **SECTION 96.**

4385 Title 53 of the Official Code of Georgia Annotated, relating to wills, trusts, and estates, is
 4386 amended by revising subsection (b) of Code Section 53-5-33, relating to requisites for
 4387 admission to ancillary probate, as follows:

4388 "(b) For purposes of ancillary probate of out-of-state wills, when the out-of-state will has
 4389 been admitted to probate or established in the domiciliary jurisdiction, the will may be
 4390 admitted to ancillary probate in solemn form upon production of a properly certified copy
 4391 of the will and a properly authenticated copy of the final proceedings in the jurisdiction in
 4392 which the will was probated or established, certified according to Code Section ~~24-7-24~~
 4393 24-9-922, and may be attacked or resisted on the same grounds as other judicial
 4394 proceedings from a state of the United States."

4395

SECTION 97.

4396 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section
4397 53-5-35, relating to muniments of title to realty, as follows:

4398 "(1) Such a will is accompanied by properly authenticated copies of the record admitting
4399 the will to probate in another state, certified according to Code Section ~~24-7-24~~ 24-9-922;
4400 and"

4401

SECTION 98.

4402 Said title is further amended by revising Code Section 53-5-43, relating to evidence of
4403 authority, as follows:

4404 "53-5-43.

4405 A copy of letters, or like documentation authenticated in accordance with Code Section
4406 ~~24-7-24~~ 24-9-922, evidencing the qualification of the personal representative of the
4407 decedent who died domiciled outside this state, shall constitute prima-facie evidence of the
4408 authority of the personal representative to act in this state. Whenever a personal
4409 representative shall execute and deliver any deed of assent or conveyance with respect to
4410 real property located within this state, the personal representative shall attach to such deed
4411 as an exhibit the authenticated copy of the letters, and a certified copy of the will in the
4412 case of a testate decedent. The clerks of the superior courts of this state shall not be
4413 authorized to accept for filing and recording any deed given by such personal
4414 representative that does not conform to the foregoing requirements. Unless a third party
4415 has actual knowledge of the existence or pendency of ancillary probate or administration
4416 with respect to the decedent within this state, the third party who is dealing with the
4417 personal representative in reliance on the personal representative's letters and, in the case
4418 of a testate decedent, the out-of-state or foreign will, shall be fully protected."

4419

SECTION 99.

4420 Said title is further amended by revising Code Section 53-11-11, relating to authentication
4421 or exemplification of document, as follows:

4422 "53-11-11.

4423 Whenever it is required that a document to be filed in the probate court be authenticated
4424 or exemplified, such requirement shall be met by complying with the provisions of Code
4425 Section ~~24-7-24~~ 24-7-922 and such full faith and credit shall be given to the document as
4426 is provided in that Code section."

4427 **SECTION 100.**

4428 This Act shall become effective on January 1, 2012, and shall apply to any motion made or
4429 hearing or trial commenced on or after such date.

4430 **SECTION 101.**

4431 All laws and parts of laws in conflict with this Act are repealed.