

House Bill 1396

By: Representative Scott of the 153rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 12 of Title 15 of the Official Code of Georgia Annotated,
2 relating to grand juries, so as to provide for a regional grand jury; to provide for a short title;
3 to provide for definitions; to provide for jurisdiction and powers of a regional grand jury; to
4 provide for selecting, impaneling, and the term of such grand jurors; to provide for
5 prosecution and venue; to provide for judicial supervision; to provide for the Attorney
6 General to attend and present evidence to such grand jury; to provide for appointment or
7 election of a foreperson and the oath of regional grand jurors; to provide for expense
8 allowances and travel cost reimbursement; to provide for a stenographer; to provide for
9 related matters; to provide for a contingent effective date; to provide for applicability; to
10 provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for
11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Article 4 of Chapter 12 of Title 15 of the Official Code of Georgia Annotated, relating to
15 grand juries, is amended by adding a new part to read as follows:

16 style="text-align:center">"Part 3

17 15-12-110.

18 This part shall be known and may be cited as the 'Georgia Regional Grand Jury Act.'

19 15-12-111.

20 As used in this part, the term:

21 (1) 'Attorney General designee' means any assistant attorney general, special assistant
22 attorney general, district attorney, assistant district attorney, or special assistant district
23 attorney designated by the Attorney General to appear before a regional grand jury.

24 (2) 'Criminal act of terrorism' means any crime which involves acts dangerous to human
 25 life and which are intended to intimidate or coerce a civilian population, influence the
 26 policy of a government by intimidation or coercion, or affect the conduct of a government
 27 by mass destruction, assassination, or kidnapping.

28 (3) 'Designated judge' means a superior court judge designated by the Supreme Court of
 29 Georgia to impanel and preside over a regional grand jury.

30 (4) 'Public corruption' means any unlawful activity under color of or in connection with
 31 any public office, public employment, or public contract by:

32 (A) Any public official, public employee, member of any public authority, agency,
 33 commission, council, board, bureau, or instrumentality, or the agent, servant, assignee,
 34 consultant, contractor, vendor, designee, appointee, representative, or any other person
 35 of like relationship, by whatever designation known, of any such public official, public
 36 employee, or member under color of or in connection with any public office or public
 37 employment;

38 (B) Any person, corporation, partnership, or firm of any description that commits any
 39 crime in relation to the securing or performance of any contract with any public
 40 authority, agency, commission, council, board, bureau, or instrumentality; or

41 (C) Any person or group of persons, individually or in concert, who violates any
 42 election law of this state, the commission of which constitutes a felony.

43 15-12-112.

44 (a) The jurisdiction of a regional grand jury shall extend throughout its designated region,
 45 and it may investigate and return indictments for crimes committed any place within its
 46 region. For the purposes of this part, the state shall be divided into three regions which
 47 individually shall be known as the Northern, Middle, and Southern Regions and which
 48 shall be geographically identical to and coincide with the three districts established for the
 49 United States District Courts of this state, as set forth in 28 U.S.C. Section 90.

50 (b) All laws relating to county grand juries shall apply to regional grand juries to the extent
 51 that such laws are consistent with the provisions of this part.

52 (c) A regional grand jury may conduct investigations prior to the presentation of a
 53 proposed indictment by the Attorney General or Attorney General designee. A regional
 54 grand jury may compel the production of evidence and subpoena witnesses, inspect or
 55 require the production of records, documents, correspondence, and books of any
 56 department, agency, board, bureau, commission, institution, or authority of the state or any
 57 of its political subdivisions, and require production of records, documents, correspondence,
 58 and books of any person, firm, or corporation which relate directly or indirectly to the

59 subject of the investigation being conducted. A regional grand jury's subpoena may be
60 signed by any official authorized by the regional grand jury to issue such process.

61 (d) Regional grand juries shall have jurisdiction to investigate and return indictments or
62 presentments for crimes involving:

63 (1) Public corruption; or

64 (2) Persons, conspiracies, enterprises, entities, or other organizations which occur in or
65 affect more than one county, including, but not limited to, criminal acts of terrorism;
66 telemarketing fraud, Internet fraud, or home repair fraud in violation of Part 2 of Article
67 15 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975'; violation of Article
68 5 of Chapter 8 of Title 16, the 'Georgia Residential Mortgage Fraud Act'; violation of
69 Article 6 of Chapter 9 of Title 16, the 'Georgia Computer Systems Protection Act';
70 identity fraud in violation of Article 8 of Chapter 9 of Title 16; trafficking in cocaine,
71 illegal drugs, marijuana, or methamphetamine in violation of Code Section 16-13-31;
72 racketeering activity in violation of Chapter 14 of Title 16, the 'Georgia RICO (Racketeer
73 Influenced and Corrupt Organizations) Act'; criminal gang activity as defined in Code
74 Section 16-15-3; and any ancillary crimes.

75 15-12-113.

76 (a) When the Attorney General deems it to be in the public interest to convene a regional
77 grand jury, the Attorney General shall file a written petition with the Supreme Court of
78 Georgia. The petition shall demonstrate a need for the investigation of crimes involving
79 public corruption or other crimes occurring in more than one county. The petition shall
80 demonstrate that the matter to be investigated cannot be effectively handled by a county
81 grand jury. At the request of the Attorney General, the Supreme Court may direct that the
82 petition be filed under seal in order to preserve the secrecy of the proceedings. Upon
83 finding that the Attorney General has set forth good and sufficient cause for impaneling a
84 regional grand jury, the Supreme Court shall issue an order designating a superior court
85 judge who presides within the appropriate region to impanel and preside over the regional
86 grand jury.

87 (b) The regional grand jury shall be impaneled and sit in a county in the judicial circuit in
88 which the designated judge presides. If the designated judge presides in a judicial circuit
89 with more than one county, the designated judge shall select the county in which the
90 regional grand jury shall sit.

91 (c) When the Attorney General deems it to be in the public interest to convene one or more
92 additional regional grand juries, the Attorney General may apply to the Supreme Court
93 which, upon finding good and sufficient cause, shall order the impaneling of one or more
94 additional regional grand juries.

95 (d) The designated judge shall issue an order selecting the counties from which the
96 regional grand jurors shall be drawn. The regional grand jurors shall be chosen from not
97 fewer than four counties within the region, which counties need not be contiguous to the
98 county in which the regional grand jury shall sit; provided, however, that the selection of
99 the counties shall be made with due regard for expense and convenience of travel.

100 (e) The clerk of superior court of the county in which the regional grand jury shall sit shall
101 act as the clerk for the regional grand jury. Upon receipt of the order designating the
102 counties from which the regional grand jurors shall be chosen, the clerk shall prepare a list
103 of prospective regional grand jurors drawn from current jury lists of those counties, which
104 lists shall be provided upon demand to the clerk by the clerks of superior court of those
105 counties selected by the designated judge.

106 (f) The regional grand jury shall consist of not less than 16 nor more than 23 persons. The
107 votes of at least 12 regional grand jurors shall be necessary to return a bill of indictment
108 or to make a presentment. Three alternate regional grand jurors may be sworn and, subject
109 to the maximum number fixed in this subsection, may serve when any regional grand juror
110 dies, is discharged for any cause, becomes ill, or is for other cause absent during any
111 sitting. Nothing contained in this Code section shall limit the authority of the designated
112 judge to replace a regional grand juror.

113 (g) No more than five regional grand jurors shall be residents of any one county, and no
114 more than 12 regional grand jurors shall be residents of any one judicial circuit.

115 (h) A person shall be qualified to serve as a regional grand juror if the person would
116 otherwise be qualified to serve as a county grand juror in his or her county of residence.

117 (i) The term of a regional grand jury shall be 12 months; provided, however, that the
118 designated judge, upon good cause shown by the Attorney General or an Attorney General
119 designee, may extend the term to 18 months.

120 15-12-114.

121 The Attorney General and, within their respective circuits, the district attorneys of the state
122 shall be empowered to prosecute indictments returned by a regional grand jury in any
123 county in which venue is proper. Nothing contained in this part shall limit the authority
124 of a county grand jury, special grand jury, district attorney, solicitor general, or other law
125 enforcement personnel to investigate, indict, or prosecute offenses within the jurisdiction
126 of the regional grand jury.

127 15-12-115.

128 Judicial supervision of the regional grand jury shall be provided by the designated judge,
129 and all indictments, presentments, and other formal returns of any kind made by the

130 regional grand jury shall be returned to the designated judge. The designated judge shall
131 charge the regional grand jury on its powers and duties and shall require periodic reports
132 of the regional grand jury's progress. The designated judge shall transmit any bill of
133 indictment to the clerk of the superior court of the county where the crime or crimes were
134 committed, as alleged in the indictment returned by the regional grand jury.

135 15-12-116.

136 The Attorney General or one or more Attorney General designees shall attend the regional
137 grand jury and shall serve as the legal adviser to the regional grand jury. Presentation of
138 evidence shall be made to the regional grand jury by the Attorney General or one or more
139 Attorney General designees. The Attorney General or one or more Attorney General
140 designees shall oversee regional grand jury investigations.

141 15-12-117.

142 (a) The designated judge may appoint the foreperson of the regional grand jury or may
143 direct the regional grand jury to elect its own foreperson. The foreperson may administer
144 the oath prescribed to all witnesses required to testify before the regional grand jury and
145 may also examine such witnesses.

146 (b) The following oath shall be administered to the foreperson and to each member of a
147 regional grand jury:

148 'You, as foreperson (or member) of the regional grand jury, shall diligently inquire and
149 true presentment make of all such matters and things as shall be given you in the court's
150 charge or shall come to your knowledge touching the present service; and you shall keep
151 the deliberations of the regional grand jury secret unless called upon to give evidence
152 thereof in some court of law in this state. You shall present no one from envy, hatred, or
153 malice, nor shall you fail to present anyone from fear, favor, affection, reward, or the
154 hope thereof, but you shall present all things truly and as they come to your knowledge.
155 So help you God.'

156 15-12-118.

157 (a) Each member of a regional grand jury impaneled pursuant to this part shall be entitled
158 to a fee for each day or part of a day of service in the amount of \$40.00. In addition, each
159 such member shall be entitled to receive reimbursement for:

160 (1) The actual cost of necessary meals and lodging for each day served, not to exceed the
161 expense allowance provided in subsection (b) of Code Section 45-7-21; and

162 (2) Travel cost for necessary round trip travel from the juror's residence to the site
163 selected by the designated judge pursuant to subsection (b) of Code Section 15-12-113

164 in the amount authorized for use of a personal vehicle in Code Section 50-19-7 or the
165 actual cost of public transportation, not to exceed the amount authorized for use of a
166 personal vehicle.

167 (b) Reimbursement shall be from the Department of Administrative Services and requested
168 on forms provided by such department, signed and submitted by each juror through the
169 clerk of superior court designated in subsection (e) of Code Section 15-12-113.

170 15-12-119.

171 A stenographer shall be authorized to be present and in attendance upon the regional grand
172 jury. Before attending the regional grand jury, the stenographer shall take the following
173 oath:

174 'I do solemnly swear that I will keep secret all things and matters coming to my
175 knowledge while in attendance upon the regional grand jury, so help me God.'

176 Reimbursement shall be from the Department of Administrative Services and requested on
177 forms provided by such department, provided that the amount submitted by the
178 stenographer shall be approved by the Attorney General or Attorney General designee."

179 **SECTION 2.**

180 This Act shall become effective on January 1, 2011; provided, however, that this Act shall
181 only become effective on January 1, 2011, upon the ratification of a resolution at the
182 November, 2010, state-wide general election, which resolution amends the Constitution so
183 as to authorize the creation of regional grand juries and authorize the General Assembly to
184 specify procedures for regional grand juries. If such resolution is not so ratified, this Act
185 shall not become effective and shall stand repealed in its entirety on January 1, 2011.

186 **SECTION 3.**

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