

House Bill 24

By: Representatives Willard of the 49th, Ralston of the 7th, Lindsey of the 54th, Lane of the 167th, Knox of the 24th, and others

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

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

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

"TITLE 24CHAPTER 1ARTICLE 124-1-1.

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

24-1-2.

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

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

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

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

(2) Criminal proceedings before grand juries;

(3) Proceedings for extradition or rendition;

(4) Proceedings for revoking parole;

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

(6) Proceedings with respect to release on bond;

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

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

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

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

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

(4) In administrative hearings, the rules of evidence shall apply subject to special statutory rules or agency rules authorized by statute.

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

ARTICLE 2

24-1-101.

Reserved.

24-1-102.

Reserved.

24-1-103.

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

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

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

Once the court makes a definitive ruling on the record admitting or excluding any evidence, either at or before trial, a party need not renew an objection or offer of proof to preserve such claim of error for appeal. If, on direct examination of a witness, objection is made to the admissibility of evidence, neither cross-examination of the witness on the same subject matter nor the introduction of evidence on the same subject matter shall constitute a waiver of the objection made on direct examination.

(b) The court shall accord the parties adequate opportunity to state grounds for objections and present offers of proof. The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. The court may direct the making of an offer of proof in question and answer form.

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

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

24-1-104.

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

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

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

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

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

24-1-105.

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

24-1-106.

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which, in fairness, should be considered contemporaneously with the writing or recorded statement. Evidence that qualifies for admission under this Code section shall be admissible notwithstanding that it otherwise would be inadmissible under the rules of evidence, except those with respect to privileges, unless the court determines that the probative value of admitting the otherwise inadmissible evidence is substantially outweighed by the danger of unfair prejudice. Whether a party has waived a privilege by

offering a writing or recorded statement or part thereof is a matter to be determined by the court on a case-by-case basis.

CHAPTER 2

ARTICLE 1

24-2-201.

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

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

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

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

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

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

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

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

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

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

ARTICLE 2

24-2-220.

The existence and territorial extent of states and their forms of government; all symbols of nationality; the laws of nations; all laws and resolutions of the General Assembly and the journals of each branch thereof as published by authority; the laws of the United States and of the several states thereof as published by authority; the uniform rules of the courts; the general customs of merchants; the admiralty and maritime courts of the world and their seals; the political makeup and history of this state and the federal government as well as the local divisions of this state; the seals of the several departments of the government of the United States and of the several states of the union; and all similar matters of legislative

fact shall be judicially recognized without the introduction of proof. Judicial notice of
adjudicative facts shall be governed by Code Section 24-2-201.

24-2-221.

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

CHAPTER 3

24-3-1.

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

24-3-2.

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

24-3-3.

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

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

24-3-4.

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

24-3-5.

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

24-3-6.

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

24-3-7.

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

24-3-8.

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

24-3-9.

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

24-3-10.

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

CHAPTER 424-4-401.

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

24-4-402.

All relevant evidence shall be admissible, except as limited by constitutional requirements or as otherwise provided by law or by other rules applicable in the court in which the matter is pending. Evidence which is not relevant shall not be admissible.

24-4-403.

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

24-4-404.

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

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

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

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

(b) Evidence of other crimes, wrongs, or acts shall not be admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, including, but not limited to, proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, if the probative value of admitting such evidence outweighs the danger of unfair prejudice. The prosecution in a criminal proceeding shall provide reasonable notice to the defense at least ten days in advance of trial, unless the time is shortened or lengthened or pretrial notice is excused by the judge upon good cause shown, of the general nature of any such evidence it intends to introduce at trial.

24-4-405.

(a) In all proceedings in which evidence of character or a trait of character of a person is admissible, proof shall be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry shall be allowable into relevant specific instances of conduct.

(b) In proceedings in which character or a trait of character of a person is an essential element of a charge, claim, or defense or when an accused testifies to his or her own character, proof may also be made of specific instances of that person's conduct. The

243 character of the accused, including specific instances of the accused's conduct, shall also
244 be admissible in a presentencing hearing subject to the provisions of Code Section 17-10-2.

245 24-4-406.

246 Evidence of the habit of a person or of the routine practice of an organization, whether
247 corroborated or not and regardless of the presence of eyewitnesses, shall be admissible to
248 prove that the conduct of the person or organization on a particular occasion was in
249 conformity with such habit or routine practice.

250 24-4-407.

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

258 24-4-408.

259 (a) Evidence of:

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

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

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

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

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

273 24-4-409.

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

24-4-410.

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

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

(2) A plea of nolo contendere;

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

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

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

24-4-411.

In all civil proceedings involving a claim for damages, evidence that a person was or was not insured against liability shall not be admissible upon the issue of whether the person acted negligently or otherwise wrongfully. This Code section shall not require the exclusion of evidence of insurance against liability in proceedings under Code Section 46-7-12 or when such evidence is offered for a relevant purpose, including, but not limited to, proof of agency, ownership, or control or bias or prejudice of a witness, and the court finds that the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice.

24-4-412.

(a) In any prosecution for rape in violation of Code Section 16-6-1; aggravated assault with the intent to rape in violation of Code Section 16-5-21; aggravated sodomy or sodomy in violation of Code Section 16-6-2; statutory rape in violation of Code Section 16-6-3; aggravated child molestation or child molestation in violation of Code Section 16-6-4; incest in violation of Code Section 16-6-22; sexual battery in violation of Code Section 16-6-22.1; or aggravated sexual battery in violation of Code Section 16-6-22.2, evidence relating to the past sexual behavior of the complaining witness shall not be admissible, either as direct evidence or on cross-examination of the complaining witness or other

witnesses, except as provided in this Code section. For the purposes of this Code section, evidence of past sexual behavior includes, but is not limited to, evidence of the complaining witness's marital history, mode of dress, general reputation for promiscuity, nonchastity, or sexual mores contrary to the community standards.

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

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

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

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

(3) The defense may then introduce evidence pursuant to the order of the court.

24-4-413.

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

(b) In a proceeding in which the prosecution intends to offer evidence under this Code section, the prosecutor shall disclose such evidence to the accused, including statements

of witnesses or a summary of the substance of any testimony that is expected to be offered, at least ten days in advance of trial, unless the time is shortened or lengthened or pretrial notice is excused by the judge upon good cause shown.

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

(d) For purposes of this Code section and Code Section 24-4-415, the term 'offense of sexual assault' means any conduct or attempt or conspiracy to engage in conduct that would be a violation of Code Section 16-6-1, 16-6-2, 16-6-3, 16-6-5.1, 16-6-22, 16-6-22.1, or 16-6-22.2.

24-4-414.

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

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

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

(d) For purposes of this Code section and Code section 24-4-415, the term 'offense of child molestation' means any conduct or attempt or conspiracy to engage in conduct that would be a violation of Code Section 16-6-4, 16-6-5, 16-12-100, 16-12-100.2, or 16-12-100.3.

24-4-415.

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

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

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

384 24-4-416.

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

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

399 CHAPTER 5

400 24-5-501.

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

403 (1) Communications between husband and wife;

404 (2) Communications between attorney and client;

405 (3) Communications among grand jurors;

406 (4) Secrets of state;

407 (5) Communications between psychiatrist and patient;

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

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

413 (8) Communications between or among any psychiatrist, psychologist, licensed clinical
414 social worker, clinical nurse specialist in psychiatric/mental health, licensed marriage and
415 family therapist, and licensed professional counselor who are rendering psychotherapy

or have rendered psychotherapy to a patient, regarding that patient's communications which are otherwise privileged by paragraph (5), (6), or (7) of this Code section; and (9) Communications between accountant and client as provided by Code Section 43-3-32.

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

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

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

24-5-502.

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

24-5-503.

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

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

24-5-504.

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

447 24-5-505.

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

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

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

458 24-5-506.

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

461 (b) If an accused in a criminal proceeding wishes to testify and announces in open court
462 his or her intention to do so, the accused may so testify. If an accused testifies, he or she
463 shall be sworn as any other witness and, except as provided in Code Sections 24-6-608 and
464 24-6-609, may be examined and cross-examined as any other witness. The failure of an
465 accused to testify shall create no presumption against the accused, and no comment shall
466 be made because of such failure.

467 24-5-507.

468 (a) Whenever in the judgment of the Attorney General or any district attorney the
469 testimony of any person or the production of evidence of any kind by any person in any
470 criminal proceeding before a court or grand jury is necessary to the public interest, the
471 Attorney General or the district attorney may request in writing the superior court to order
472 such person to testify or produce the evidence. Upon order of the court, such person shall
473 not be excused on the basis of the privilege against self-incrimination from testifying or
474 producing any evidence required, but no testimony or other evidence required under the
475 order or any information directly or indirectly derived from such testimony or evidence
476 shall be used against the person in any proceeding or prosecution for a crime or offense
477 concerning which he or she testified or produced evidence under court order. However,
478 such person may nevertheless be prosecuted or subjected to penalty or forfeiture for any
479 perjury, false swearing, or contempt committed in testifying or failing to testify or in
480 producing or failing to produce evidence in accordance with the order but shall not be
481 required to produce evidence that can be used in any other court of this state, the United

States, or any other state. Any order entered under this Code section shall be entered of record in the minutes of the court so as to afford a permanent record thereof, and any testimony given by a person pursuant to such order shall be transcribed and filed for permanent record in the office of the clerk of the court.

(b) If a person refuses to testify after being granted immunity from prosecution and after being ordered to testify as set forth in this Code section, such person may be adjudged in contempt and committed to the county jail until such time as such person purges himself or herself of contempt by testifying as ordered without regard to the expiration of the grand jury. If the grand jury before which such person was ordered to testify has been dissolved, such person may purge himself or herself by testifying before the court.

24-5-508.

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

(1) Is material and relevant;

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

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

CHAPTER 6

ARTICLE 1

24-6-601.

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

24-6-602.

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

513 24-6-603.

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

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

522 24-6-604.

523 Except as provided in Code Sections 24-6-656 and 24-6-657 or by the *Rules for the Use*
524 *of Interpreters for Non-English Speaking Persons* promulgated in the *Rules of the Supreme*
525 *Court of Georgia*, an interpreter shall be subject to the provisions of Code Sections
526 24-7-702. The interpreter shall be required to take an oath or affirmation to make a true
527 translation.

528 24-6-605.

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

531 24-6-606.

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

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

544 24-6-607.

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

547 24-6-608.

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

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

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

553 (b)(1) Specific instances of the conduct of a witness which are relevant only for the
554 purpose of attacking or supporting the witness's credibility shall not be inquired into on
555 direct examination or proved by extrinsic evidence except as provided in Code Section
556 24-6-609 or except for conduct indicative of the witness's bias toward a party.

557 (2) Specific instances of conduct may, however, if probative of truthfulness or
558 untruthfulness, be inquired into on cross-examination of the witness:

559 (A) Concerning the character for truthfulness or untruthfulness of another witness as
560 to which character the witness being cross-examined has testified; or

561 (B) Concerning the witness's character for truthfulness or untruthfulness if the court,
562 in its discretion after being given an offer of proof by the cross-examiner outside the
563 hearing of the jury, determines that such inquiry is in the interests of justice.

564 The cross-examiner shall have a good faith basis to believe that any specific instances of
565 conduct raised on cross-examination are true.

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

569 24-6-609.

570 (a) General rule. For the purpose of attacking the credibility of a witness, or of the
571 accused, if the accused testifies:

572 (1) Evidence that a witness has been convicted of a crime shall be admitted if the crime
573 was punishable by death or imprisonment of one year or more under the law under which
574 the witness was convicted if the court determines that the probative value of admitting
575 the evidence for its impeachment use outweighs its prejudicial effect to the witness or the
576 accused;

577 (2) Evidence that the accused has been convicted of a crime shall be admitted if the
578 crime was punishable by death or imprisonment of one year or more under the law under

579 which the accused was convicted if the court determines that the probative value of
580 admitting the evidence for its impeachment use substantially outweighs its prejudicial
581 effect to the accused; and

582 (3) Evidence that any witness or the accused has been convicted of a crime shall be
583 admitted if an element of such crime required proof of an act of dishonesty or making a
584 false statement, regardless of the punishment that could be imposed for such offense.

585 (b) Time limit. Evidence of a conviction under this Code section shall not be admissible
586 if a period of more than ten years has elapsed since the date of the conviction or of the
587 release of the witness from the confinement imposed for such conviction, whichever is the
588 later date, unless the court determines, in the interests of justice, that the probative value
589 of the conviction supported by specific facts and circumstances substantially outweighs its
590 prejudicial effect. However, evidence of a conviction more than ten years old, as
591 calculated in this subsection, shall not be admissible unless the proponent gives to the
592 adverse party written notice at least ten days in advance of trial, unless the time is
593 shortened or lengthened or pretrial notice is excused by the judge upon good cause shown.

594 (c) Effect of pardon, annulment, certificate of rehabilitation, or discharge from a first
595 offender program. Evidence of a finding of guilt and subsequent discharge under any first
596 offender statute shall not be used to impeach any witness and evidence of a conviction shall
597 not be admissible under this Code section if:

598 (1) The conviction has been the subject of a pardon, annulment, certificate of
599 rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the
600 person convicted, and that person has not been convicted of a subsequent crime which
601 was punishable by death or imprisonment in excess of one year; or

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

604 (d) Nolo contendere pleas and juvenile adjudications. A conviction based on a plea of
605 nolo contendere shall not be admissible to impeach any witness under this Code section.
606 Evidence of juvenile adjudications shall not generally be admissible under this Code
607 section. The court may, however, in a criminal proceeding allow evidence of a juvenile
608 adjudication of a witness other than the accused if conviction of the offense would be
609 admissible to attack the credibility of an adult and the court is satisfied that admission in
610 evidence is necessary for a fair determination of the issue of guilt or innocence of the
611 accused.

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

614 (f) Certified copy of record of conviction. A party impeaching a witness with a prior
615 conviction on cross-examination need not have or produce a certified copy of the record

616 of conviction but shall have a good faith basis to believe that the witness has a prior
617 conviction that qualifies under this Code section before asking the witness about such
618 conviction.

619 24-6-610.

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

623 24-6-611.

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

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

627 (2) Avoid needless consumption of time; and

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

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

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

637 24-6-612.

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

642 (b) In civil proceedings or in criminal proceedings after indictment or the filing of an
643 accusation or similar charging document, if a witness uses a writing to refresh his or her
644 memory before testifying and the court in its discretion determines it is necessary in the
645 interests of justice, an adverse party shall be entitled to have the writing produced at the
646 hearing or trial, to inspect it, to cross-examine the witness on such writing, and to introduce
647 in evidence those portions of such writing which relate to the testimony of the witness. If
648 the writing used is protected by the attorney-client privilege or as attorney work product
649 under Code Section 9-11-26, use of the writing to refresh recollection prior to the hearing

or trial shall not constitute a waiver of that privilege or protection. If it is claimed that the writing contains matters not related to the subject matter of the testimony, the court shall examine the writing in camera, excise any portions of such writing not so related, and order delivery of the remainder of such writing to the party entitled to such writing. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal. If a writing is not produced or delivered pursuant to an order under this Code section, the court shall make any order justice requires; provided, however, that in criminal proceedings, when the prosecution elects not to comply, the order shall be one striking the testimony or, if the court in its discretion determines that the interests of justice so require, declaring a mistrial.

24-6-613.

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

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

(c) A prior consistent statement shall be admissible to rehabilitate a witness if the prior consistent statement logically rebuts an attack made on the witness's credibility. A general attack on a witness's credibility with evidence offered under Code Section 24-6-608 or 24-6-609 shall not permit rehabilitation under this subsection. If a prior consistent statement is offered to rebut an express or implied charge against the witness of recent fabrication or improper influence or motive, the prior consistent statement shall have been made before the alleged recent fabrication or improper influence or motive arose.

24-6-614.

(a) The court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine such witnesses.

(b) The court may interrogate witnesses, whether called by itself or by a party.

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

684 24-6-615.

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

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

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

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

694 24-6-616.

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

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

703 ARTICLE 2

704 24-6-620.

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

708 24-6-621.

709 A witness may be impeached by disproving the facts testified to by the witness.

710 24-6-622.

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

713 24-6-623.

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

716 ARTICLE 3

717 24-6-650.

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

724 24-6-651.

725 As used in this article, the term:

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

729 (2) 'Hearing impaired person' means any person whose hearing is totally impaired or
730 whose hearing is so seriously impaired as to prohibit the person from understanding oral
731 communications when spoken in a normal conversational tone.

732 (3) 'Intermediary interpreter' means any person, including any hearing impaired person,
733 who is able to assist in providing an accurate interpretation between spoken English and
734 sign language or between the variance of sign language by acting as an intermediary
735 between a hearing impaired person and a qualified interpreter.

736 (4) 'Proceeding' means any meeting, hearing, trial, investigation, or other proceeding of
737 any nature conducted by an agency.

738 (5) 'Qualified interpreter' means any person certified as an interpreter for hearing
739 impaired persons by the National Registry of Interpreters for the Deaf or approved as an
740 interpreter for hearing impaired persons by the Georgia Commission on Interpreters for
741 Non-English Speakers.

742 24-6-652.

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

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

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

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

24-6-653.

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

(b)(1) Except as provided in paragraph (2) of this subsection, no interrogation, warning, informing of rights, taking of statements, or other investigatory procedures shall be undertaken upon a hearing impaired person unless a qualified interpreter has been provided or the law enforcement agency has taken such other steps as may be reasonable to accommodate such person's disability. No answer, statement, admission, or other evidence acquired through the interrogation of a hearing impaired person shall be admissible in any criminal or quasi-criminal proceedings unless such was knowingly and voluntarily given. No hearing impaired person who has been taken into custody and who is otherwise eligible for release shall be detained because of the unavailability of a qualified interpreter.

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

24-6-654.

(a) A court shall provide a qualified interpreter to any hearing impaired person whenever the hearing impaired person has been provided with a public defender or court appointed legal counsel if counsel is not qualified to communicate directly with the hearing impaired person.

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

24-6-655.

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

24-6-656.

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

24-6-657.

(a) Prior to providing any service to a hearing impaired person, any qualified interpreter or intermediary interpreter shall subscribe to an oath that he or she will interpret all communications in an accurate manner to the best of his or her skill and knowledge. The Supreme Court of Georgia may by rule of court prescribe the form of the oath for interpreters and intermediary interpreters for use in court and other judicial proceedings.

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

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

(d) The agency or law enforcement agency may, upon its own motion or upon motion of any party, witness, or participant, order that the testimony of the hearing impaired person

813 be electronically and visually recorded. Any such recording may be used to verify the
814 testimony given by the hearing impaired person.

815 24-6-658.

816 (a) Any qualified interpreter or intermediary interpreter providing service under this article
817 shall be compensated by the agency or law enforcement agency requesting such service.

818 (b) The Supreme Court of Georgia may by rule of court provide for the compensation of
819 interpreters in court proceedings.

820 (c) The expenses of providing a qualified interpreter or intermediary interpreter in any
821 civil or administrative proceeding may be assessed by the court or agency as costs in such
822 proceeding.

823 CHAPTER 7

824 24-7-701.

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

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

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

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

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

835 24-7-702.

836 (a) The provisions of this Code section shall apply in all civil proceedings except as
837 provided in Code Section 22-1-14. The opinion of a witness qualified as an expert under
838 this Code section may be given on the facts as proved by other witnesses.

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

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

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

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

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

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

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

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

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

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

(i) Is a member of the same profession;

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

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

(D) Notwithstanding any other provision of this Code section, an expert who is a physician and, as a result of having, during at least three of the last five years immediately preceding the time the act or omission is alleged to have occurred, supervised, taught, or instructed nurses, nurse practitioners, certified registered nurse anesthetists, nurse midwives, physician's assistants, physical therapists, occupational therapists, or medical support staff, has knowledge of the standard of care of that health care provider under the circumstances at issue shall be competent to testify as to the

standard of that health care provider. However, a nurse, nurse practitioner, certified registered nurse anesthetist, nurse midwife, physician's assistant, physical therapist, occupational therapist, or medical support staff shall not be competent to testify as to the standard of care of a physician.

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

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

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

24-7-703.

The facts or data in the particular proceeding upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, such facts or data need not be admissible in evidence in order for the opinion or inference to be admitted. Such facts or data that are otherwise inadmissible shall not be disclosed to the jury by the proponent of the opinion or inference unless the court determines that their probative value in assisting the jury to evaluate the expert's opinion substantially outweighs their prejudicial effect.

24-7-704.

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

(b) No expert witness testifying with respect to the mental state or condition of an accused in a criminal proceeding shall state an opinion or inference as to whether the accused did

916 or did not have the mental state or condition constituting an element of the crime charged
917 or of a defense thereto. Such ultimate issues are matters for the trier of fact alone.

918 24-7-705.

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

923 24-7-706.

924 Except as provided in Chapter 7 of Title 9 or Code Section 17-7-130.1, 17-10-66, 29-4-11,
925 29-5-11, 31-14-3, 31-20-3, or 44-6-166.1, the following procedures shall govern the
926 appointment, compensation, and presentation of testimony of court appointed experts:

927 (1) The court on its own motion or on the motion of any party may enter an order to
928 show cause why any expert witness should not be appointed and may request the parties
929 to submit nominations. The court may appoint any expert witnesses agreed upon by the
930 parties and may appoint expert witnesses of its own selection. An expert witness shall
931 not be appointed by the court unless the witness consents to act. Each appointed expert
932 witness shall be informed of his or her duties by the court in writing, a copy of which
933 shall be filed with the clerk, or at a conference in which the parties shall have opportunity
934 to participate. Each appointed expert witness shall advise the parties of his or her
935 findings, if any. Except as provided in Article 3 of Chapter 12 or Article 6 of Chapter 13
936 of this title, such witness's deposition may be taken by any party. Such witness may be
937 called to testify by the court or any party. Each expert witness shall be subject to
938 cross-examination by each party, including a party calling the witness;

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

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

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

949 24-7-707.

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

953 CHAPTER 8

954 ARTICLE 1

955 24-8-801.

956 As used in this chapter, the term:

957 (a) 'Statement' means:

958 (1) An oral or written assertion; or

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

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

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

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

964 (1) *Prior statement by witness.*

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

969 (B) If a hearsay statement is admitted and the declarant does not testify at the trial or
970 hearing, other out-of-court statements of the declarant shall be admissible for the
971 limited use of impeaching or rehabilitating the credibility of the declarant, and not as
972 substantive evidence, if the other statements qualify as prior inconsistent statements or
973 prior consistent statements under Code Section 24-6-613.

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

977 (2) *Admissions by party-opponent.*

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

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

981 (B) A statement of which the party has manifested an adoption or belief in its truth,
982 including a party's acquiescence or silence when the circumstances require an answer,
983 denial, or other conduct;

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

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

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

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

(e) 'Public office' means:

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

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

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

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

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

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

24-8-802.

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

24-8-803.

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

(1) A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition or immediately thereafter;

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

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

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

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

(6) Unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness and subject to the provisions of Chapter 7 of this title, a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, if (A) made at or near the time of the described acts, events, conditions, opinions, or diagnoses; (B) made by, or from information transmitted by, a person with personal knowledge and a business duty to report; (C) kept in the course of a regularly conducted business activity; and (D) it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness or by certification that complies with paragraph (11) or (12) of Code Section 24-9-902 or by any other statute permitting certification. The term 'business' as used in this paragraph includes any business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit. Public records and reports shall be admissible under paragraph (8) of this Code section and shall not be admissible under this paragraph;

(7) Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6) of this Code section, to prove the nonoccurrence or nonexistence of the matter, if the matter was

of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness;

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

(A) The activities of the public office;

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

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

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

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

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

(12) Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified and purporting to have been issued at the time of the act or within a reasonable time thereafter;

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

(14) The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a

public office and an applicable law authorizes the recording of documents of that kind in such office;

(15) A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document;

(16) Statements in a document in existence 20 years or more the authenticity of which is established;

(17) Market quotations, tabulations, lists, directories, or other published compilations generally used and relied upon by the public or by persons in the witness's particular occupation;

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

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

(20) Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community and reputation as to events of general history important to the community or state or nation in which such lands are located;

(21) Reputation of a person's character among associates or in the community;

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

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

1125 24-8-804.

1126 (a) As used in this Code section, the term 'unavailable as a witness' includes situations in
1127 which the declarant:

1128 (1) Is exempted by ruling of the court on the ground of privilege from testifying
1129 concerning the subject matter of the declarant's statement;

1130 (2) Persists in refusing to testify concerning the subject matter of the declarant's
1131 statement despite an order of the court to do so;

1132 (3) Testifies to a lack of memory of the subject matter of the declarant's statement;

1133 (4) Is unable to be present or to testify at the hearing because of death or then existing
1134 physical or mental illness or infirmity; or

1135 (5) Is absent from the hearing and the proponent of the statement has been unable to
1136 procure the declarant's attendance or, in the case of exceptions under paragraph (2), (3),
1137 or (4) of subsection (b) of this Code section, the declarant's attendance or testimony, by
1138 process or other reasonable means.

1139 A declarant shall not be deemed unavailable as a witness if the declarant's exemption,
1140 refusal, claim of lack of memory, inability, or absence is due to the procurement or
1141 wrongdoing of the proponent of a statement for the purpose of preventing the witness from
1142 attending or testifying.

1143 (b) The following shall not be excluded by the hearsay rule if the declarant is unavailable
1144 as a witness:

1145 (1) Testimony given as a witness at another hearing of the same or a different
1146 proceeding, or in a deposition taken in compliance with law in the course of the same or
1147 another proceeding, if the party against whom the testimony is now offered, or, in a civil
1148 proceeding, a predecessor in interest, had an opportunity and similar motive to develop
1149 the testimony by direct, cross, or redirect examination. If deposition testimony is
1150 admissible under either the rules stated in Code Section 9-11-32 or this Code section, it
1151 shall be admissible at trial in accordance with the rules under which it was offered;

1152 (2) In a prosecution for homicide or in a civil proceeding, a statement made by a
1153 declarant while believing that his or her death was imminent, concerning the cause or
1154 circumstances of what the declarant believed to be impending death;

1155 (3) A statement which was at the time of its making so far contrary to the declarant's
1156 pecuniary or proprietary interest or so far tended to subject the declarant to civil or
1157 criminal liability or to render invalid a claim by the declarant against another that a
1158 reasonable person in the declarant's position would not have made the statement unless
1159 believing it to be true. In a criminal proceeding, a statement tending to expose the
1160 declarant to criminal liability shall not be admissible unless corroborating circumstances
1161 clearly indicate the trustworthiness of the statement;

1162 (4) A statement concerning the declarant's own birth, adoption, marriage, divorce,
1163 legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact
1164 of personal or family history, even though the declarant had no means of acquiring
1165 personal knowledge of the matter stated or a statement concerning the foregoing matters
1166 and death also of another person, if the declarant was related to the other by blood,
1167 adoption, or marriage or was so intimately associated with the other's family as to be
1168 likely to have accurate information concerning the matter declared; or
1169 (5) A statement offered against a party that has engaged or acquiesced in wrongdoing
1170 that was intended to, and did, procure the unavailability of the declarant as a witness.

1171 24-8-805.

1172 Hearsay included within hearsay shall not be excluded under the hearsay rule if each part
1173 of the combined statements conforms with an exception to the hearsay rule.

1174 24-8-806.

1175 When a hearsay statement has been admitted in evidence, the credibility of the declarant
1176 may be attacked and, if attacked, may be supported by any evidence which would be
1177 admissible for those purposes if the declarant had testified as a witness. Evidence of a
1178 statement or conduct by the declarant at any time, inconsistent with the declarant's hearsay
1179 statement, shall not be subject to any requirement that the declarant may have been
1180 afforded an opportunity to deny or explain. If the party against whom a hearsay statement
1181 has been admitted calls the declarant as a witness, the party shall be entitled to examine the
1182 declarant on the statement as if under cross-examination.

1183 24-8-807.

1184 A statement not specifically covered by any law but having equivalent circumstantial
1185 guarantees of trustworthiness shall not be excluded by the hearsay rule, if the court
1186 determines that:

1187 (1) The statement is offered as evidence of a material fact;
1188 (2) The statement is more probative on the point for which it is offered than any other
1189 evidence which the proponent can procure through reasonable efforts; and
1190 (3) The general purposes of the rules of evidence and the interests of justice will best be
1191 served by admission of the statement into evidence.

1192 However, a statement shall not be admitted under this Code section unless the proponent
1193 of it makes known to the adverse party, sufficiently in advance of the trial or hearing to
1194 provide the adverse party with a fair opportunity to prepare to meet it, the proponent's

1195 intention to offer the statement and the particulars of it, including the name and address of
1196 the declarant.

1197 ARTICLE 2

1198 24-8-820.

1199 A statement made by a child under the age of 14 years describing any act of sexual contact
1200 or physical abuse performed with or on the child by another shall be admissible in evidence
1201 by the testimony of the person to whom made if the child is available to testify in the
1202 proceedings and the court finds that the circumstances of the statement provide sufficient
1203 indicia of reliability.

1204 24-8-821.

1205 Without offering the same in evidence, either party may avail himself or herself of
1206 allegations or admissions made in the pleadings of the other.

1207 24-8-822.

1208 When an admission is given in evidence by one party, it shall be the right of the other party
1209 to have the whole admission and all the conversation connected therewith admitted into
1210 evidence.

1211 24-8-823.

1212 All admissions shall be scanned with care, and confessions of guilt shall be received with
1213 great caution. A confession alone, uncorroborated by any other evidence, shall not justify
1214 a conviction.

1215 24-8-824.

1216 To make a confession admissible, it shall have been made voluntarily, without being
1217 induced by another by the slightest hope of benefit or remotest fear of injury.

1218 24-8-825.

1219 The fact that a confession has been made under a spiritual exhortation, a promise of
1220 secrecy, or a promise of collateral benefit shall not exclude it.

1221 24-8-826.

1222 The confession of one joint offender or conspirator, made after the enterprise ended, shall
1223 be admissible only against such offender or conspirator.

24-8-827.

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

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

CHAPTER 9

ARTICLE 1

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;

- 1257 (3) Comparison by the trier of fact or by expert witnesses with specimens which have
1258 been authenticated. Such specimens shall be furnished to the opposite party no later than
1259 ten days prior to trial;
- 1260 (4) Appearance, contents, substance, internal patterns, or other distinctive characteristics,
1261 taken in conjunction with circumstances;
- 1262 (5) Identification of a voice, whether heard firsthand or through mechanical or electronic
1263 transmission or recording, by opinion based upon hearing the voice at any time under
1264 circumstances connecting it with the alleged speaker;
- 1265 (6) Telephone conversations, by evidence that a call was made to the number assigned
1266 at the time by a telephone service provider to a particular person or business, if:
- 1267 (A) In the case of a person, circumstances, including self-identification, show the
1268 person answering to be the one called; or
- 1269 (B) In the case of a business, the call was made to a place of business and the
1270 conversation related to business reasonably transacted over the telephone;
- 1271 (7) Evidence that a document authorized by law to be recorded or filed and in fact
1272 recorded or filed in a public office or a purported public record, report, statement, or data
1273 compilation, in any form, is from the public office where items of this nature are kept;
- 1274 (8) Evidence that a document or data compilation, in any form:
- 1275 (A) Is in such condition as to create no suspicion concerning its authenticity;
- 1276 (B) Was in a place where it, if authentic, would likely be; and
- 1277 (C) Has been in existence 20 years or more at the time it is offered;
- 1278 (9) Evidence describing a process or system used to produce a result and showing that
1279 the process or system produces an accurate result; or
- 1280 (10) Any method of authentication or identification provided by law.

1281 24-9-902.

1282 Extrinsic evidence of authenticity as a condition precedent to admissibility shall not be
1283 required with respect to the following:

- 1284 (1) A document bearing a seal purporting to be that of the United States or of any state,
1285 district, commonwealth, territory, or insular possession thereof or the Panama Canal Zone
1286 or the Trust Territory of the Pacific Islands or of a political subdivision, department,
1287 officer, or agency thereof or of a municipal corporation of this state and bearing a
1288 signature purporting to be an attestation or execution;
- 1289 (2) A document purporting to bear the signature in the official capacity of an officer or
1290 employee of any entity included in paragraph (1) of this Code section having no seal, if
1291 a public officer having a seal and having official duties in the district or political

subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine;

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

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

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

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

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

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

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

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

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

- 1328 (A) Was made at or near the time of the occurrence of the matters set forth by, or from
1329 information transmitted by, a person with knowledge of such matters;
1330 (B) Was kept in the course of the regularly conducted activity; and
1331 (C) Was made by the regularly conducted activity as a regular practice.

1332 A party intending to offer a record into evidence under this paragraph shall provide
1333 written notice of such intention to all adverse parties and shall make the record and
1334 declaration available for inspection sufficiently in advance of their offer into evidence to
1335 provide an adverse party with a fair opportunity to challenge such record and declaration;
1336 or

1337 (12) In a civil proceeding, the original or a duplicate of a foreign record of regularly
1338 conducted activity that would be admissible under paragraph (6) of Code Section
1339 24-8-803 if accompanied by a written declaration by its custodian or other qualified
1340 person certifying that the record:

- 1341 (A) Was made at or near the time of the occurrence of the matters set forth by, or from
1342 information transmitted by, a person with knowledge of those matters;
1343 (B) Was kept in the course of the regularly conducted activity; and
1344 (C) Was made by the regularly conducted activity as a regular practice.

1345 The declaration shall be signed in a manner that, if falsely made, would subject the maker
1346 to criminal penalty under the laws of the country where the declaration is signed. A party
1347 intending to offer a record into evidence under this paragraph shall provide written notice
1348 of such intention to all adverse parties and shall make the record and declaration available
1349 for inspection sufficiently in advance of their offer into evidence to provide an adverse
1350 party with a fair opportunity to challenge such record and declaration.

1351 24-9-903.

1352 The testimony of a subscribing witness shall not be necessary to authenticate a writing
1353 unless required by the laws of the jurisdiction whose laws govern the validity of the
1354 writing.

1355 24-9-904.

1356 As used in this article, the term:

1357 (1) 'Public office' shall have the same meaning as set forth in Code Section 24-8-801.

1358 (2) 'Public officer' means any person appointed or elected to be the head of any entity
1359 included in paragraph (1) of Code Section 24-9-902.

1360 (3) 'Telephone service provider' shall have the same meaning as 'voice service provider'
1361 as set forth in Code Section 46-5-231.

ARTICLE 224-9-920.

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

24-9-921.

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

(1) A hospital;(2) An ambulance service;(3) A pharmacy, drugstore, or supplier of therapeutic or orthopedic devices; or(4) A licensed practicing physician, dentist, orthodontist, podiatrist, physical or occupational therapist, doctor of chiropractic, psychologist, advanced practice registered nurse, social worker, professional counselor, or marriage and family therapist.

(b) Such items of evidence need not be identified by the one who submits the bill, and it shall not be necessary for an expert witness to testify that the charges were reasonable and necessary. However, nothing in this Code section shall be construed to limit the right of a thorough and sifting cross-examination as to such items of evidence.

24-9-922.

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

1393 24-9-923.

1394 (a) As used in this Code section, the term 'unavailability of a witness' includes situations
1395 in which the authenticating witness:

1396 (1) Is exempted by ruling of the court on the ground of privilege from testifying
1397 concerning the subject matter of the authentication;

1398 (2) Persists in refusing to testify concerning the subject matter of the authentication
1399 despite an order of the court to do so;

1400 (3) Testifies to a lack of memory of the subject matter of the authentication;

1401 (4) Is unable to be present or to testify at the hearing because of death or then existing
1402 physical or mental illness or infirmity; or

1403 (5) Is absent from the hearing and the proponent of the authentication has been unable
1404 to procure the attendance of the authenticating witness by process or other reasonable
1405 means.

1406 An authenticating witness shall not be deemed unavailable as a witness if his or her
1407 exemption, refusal, claim of lack of memory, inability, or absence is due to the
1408 procurement or wrongdoing of the proponent of an authentication for the purpose of
1409 preventing the witness from attending or testifying.

1410 (b) Subject to any other valid objection, photographs, motion pictures, video recordings,
1411 and audio recordings shall be admissible in evidence when necessitated by the
1412 unavailability of a witness who can provide personal authentication and when the court
1413 determines, based on competent evidence presented to the court, that such items tend to
1414 show reliably the fact or facts for which the items are offered.

1415 (c) Subject to any other valid objection, photographs, motion pictures, video recordings,
1416 and audio recordings produced at a time when the device producing the items was not
1417 being operated by an individual person or was not under the personal control or in the
1418 presence of an individual operator shall be admissible in evidence when the court
1419 determines, based on competent evidence presented to the court, that such items tend to
1420 show reliably the fact or facts for which the items are offered, provided that, prior to the
1421 admission of such evidence, the date and time of such photograph, motion picture, or video
1422 recording shall be contained on such evidence, and such date and time shall be shown to
1423 have been made contemporaneously with the events depicted in such photograph, motion
1424 picture, or video recording.

1425 (d) This Code section shall not be the exclusive method of introduction into evidence of
1426 photographs, motion pictures, video recordings, and audio recordings but shall be
1427 supplementary to any other law and lawful methods existing in this state.

24-9-924.

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

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

CHAPTER 10

24-10-1001.

As used in this chapter, the term:

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

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

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

(4) 'Duplicate' means a counterpart produced by the same impression as the original or from the same matrix or by means of photography, including enlargements and miniatures, or by mechanical or electronic rerecording, chemical reproduction, or other equivalent techniques which accurately reproduce the original.

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

24-10-1002.

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

24-10-1003.

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

1461 (1) A genuine question is raised as to the authenticity of the original; or
1462 (2) A circumstance exists where it would be unfair to admit the duplicate in lieu of the
1463 original.

1464 24-10-1004.

1465 The original shall not be required and other evidence of the contents of a writing,
1466 recording, or photograph shall be admissible if:

1467 (1) All originals are lost or have been destroyed, unless the proponent lost or destroyed
1468 them in bad faith;

1469 (2) No original can be obtained by any available judicial process or procedure;

1470 (3) At a time when an original was under the control of the party against whom offered,
1471 that party was put on notice, by the pleadings or otherwise, that the contents would be a
1472 subject of proof at the hearing, and that party does not produce the original at the hearing;
1473 or

1474 (4) The writing, recording, or photograph is not closely related to a controlling issue.

1475 24-10-1005.

1476 The contents of a public record, or of a document authorized to be recorded or filed and
1477 actually recorded or filed, including data compilations in any form, if otherwise admissible,
1478 may be proved by duplicate, certified as correct in accordance with Code Section 24-9-902
1479 or Code Section 24-9-920 or testified to be correct by a witness who has compared it with
1480 the original. If a duplicate which complies with this Code section cannot be obtained by
1481 the exercise of reasonable diligence, then other evidence of the contents may be given.

1482 24-10-1006.

1483 The contents of otherwise admissible voluminous writings, recordings, or photographs
1484 which cannot conveniently be examined in court may be presented in the form of a chart,
1485 summary, or calculation. The originals, or duplicates, shall be made available for
1486 examination or copying, or both, by other parties at a reasonable time and place. The court
1487 may order that the contents of such writings, recordings, or photographs be produced in
1488 court.

1489 24-10-1007.

1490 The contents of writings, recordings, or photographs may be proved by the testimony or
1491 deposition of the party against whom offered or by that party's written admission, without
1492 accounting for the nonproduction of the original.

1493 24-10-1008.

1494 When the admissibility of other evidence of the contents of writings, recordings, or
1495 photographs under the rules of evidence depends upon the fulfillment of a condition of fact,
1496 the question of whether the condition has been fulfilled is ordinarily for the court to
1497 determine in accordance with the provisions of Code Section 24-1-104; provided, however,
1498 that when an issue is raised as to:

1499 (1) Whether the asserted writing, recording, or photograph ever existed;

1500 (2) Whether another writing, recording, or photograph produced at the trial is the
1501 original; or

1502 (3) Whether other evidence of the contents correctly reflects the contents,
1503 the issue is for the trier of fact to determine as in the case of other issues of fact.

1504 CHAPTER 11

1505 ARTICLE 1

1506 24-11-1.

1507 As used in this chapter, the term:

1508 (1) 'Custodian' means the person charged with the duty of maintaining public records.

1509 (2) 'Duplicate' means a counterpart which accurately reproduces the original.

1510 (3) 'Public record' shall have the same meaning as set forth in Code Section 24-8-801.

1511 24-11-2.

1512 (a) Where any original public records have been lost, mutilated, stolen, or destroyed, the
1513 custodian may establish duplicates in accordance with the provisions of this article. When
1514 such public records are established by duplicates, they shall have all of the effect in
1515 evidence as the original records would have had.

1516 (b) The custodian of the lost, mutilated, stolen, or destroyed public records shall bring a
1517 petition to establish such records in the superior court of the county in which the public
1518 records were located.

1519 (c) The petition shall set forth the fact that some portion of the public records has been
1520 lost, mutilated, stolen, or destroyed, specifying as nearly as may be possible the books or
1521 parts of the books in which those records existed, and shall pray for the establishment of
1522 such records.

1523 24-11-3.

1524 (a) The court shall either appoint an auditor for such petition in accordance with Chapter
1525 7 of Title 9 or shall conduct a hearing on the petition. If an auditor is appointed, the

provisions of Code Sections 9-7-1 through 9-7-16 and Code Section 9-7-21 shall apply to such proceedings. An auditor shall receive compensation for services rendered as may be allowed by the court, to be paid out of the funds of the office of the custodian whose records were lost, mutilated, stolen, or destroyed.

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

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

ARTICLE 2

24-11-20.

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

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

24-11-21.

(a) The owner, agent of the owner, or legal representative of the owner of any bond, bill, note, draft, check, or other evidence of indebtedness which has been lost or destroyed may establish a duplicate of the same in a summary manner by filing a petition with the judge of the probate court of the county of the residence of the alleged debtor or maker, if he or she is a resident of this state; and the judge of the probate court shall be deemed a judicial officer for the purpose of this Code section. The petition shall be sworn to by the party applying and shall contain as full and accurate a description as possible of the lost paper, of the loss and mode of loss, and of the inability to find the same and why, along with a prayer for the establishment of a duplicate setting forth the duplicate desired to be established.

(b) Upon the filing of a petition, the judge shall issue a citation or notice to the alleged debtor or maker requiring the debtor or maker to appear at a day not more than ten days distant and show cause, if he or she has any, why the duplicate should not be established

in lieu of the lost original. The citation or notice shall be personally served in the manner provided in Code Section 9-11-4 at least five days before the time of the hearing.

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

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

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

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

24-11-22.

When the person alleged to be a debtor or maker of a lost or destroyed paper as set forth in Code Section 24-11-21 does not reside in this state, the alleged debtor or maker may be made a party to the proceedings by publication, in a newspaper to be designated by the judge of the probate court, twice a month for two months. When the person has been made a party, this article shall apply in his or her case.

24-11-23.

(a) The owner of a lost or destroyed paper which is not an office paper, as defined in Code Section 24-11-20, who desires to establish such paper shall present to the clerk of the superior court of the county where the maker of the paper resides, if the maker is a resident of this state, a petition in writing, together with a duplicate, in substance, of the paper lost

1593 or destroyed, as nearly as he or she can recollect, which duplicate shall be sworn to by the
1594 petitioner, the petitioner's agent, or the petitioner's attorney.

1595 (b) The clerk shall issue a rule nisi in the name of the judge of the superior court calling
1596 upon the opposite party to show cause, if he or she has any, why the duplicate sworn to
1597 should not be established in lieu of the lost or destroyed original. If the respondent is found
1598 in this state, the rule nisi shall be served personally upon the respondent in the manner
1599 provided by Code Section 9-11-4 at least 20 days before the sitting of the court to which
1600 the rule nisi is made returnable. If the respondent cannot be found in this state, the rule nisi
1601 shall be served upon the respondent by publication in the manner provided in Code Section
1602 9-11-4 before the final hearing of the rule nisi.

1603 24-11-24.

1604 In a proceeding to establish lost papers under Code Section 24-11-23, no continuance shall
1605 be granted unless it appears reasonable and just to the court; nor shall a continuance be
1606 allowed to the same party more than once, except for providential cause.

1607 24-11-25.

1608 When a rule nisi has been served as provided in Code Section 24-11-23, the court shall
1609 grant a rule absolute establishing the duplicate of the lost or destroyed paper sworn to,
1610 unless good and sufficient cause is shown why the rule absolute should not be granted.

1611 24-11-26.

1612 When the duplicate of the lost or destroyed paper is established, the clerk of the court in
1613 which it is done shall furnish the duplicate to the party who had it established, with a
1614 certified endorsement thereon of the day and term of the court when the rule absolute was
1615 granted, provided all costs of the proceeding have been paid.

1616 24-11-27.

1617 (a) If the paper which has been lost or destroyed is a note, bill, bond, or other instrument
1618 upon which a proceeding may be brought, the owner may institute a proceeding thereon
1619 as soon as the rule nisi has been issued as provided for in Code Section 24-11-23. The
1620 complaint shall set forth that the paper upon which the proceeding is based is lost or
1621 destroyed. In no case shall a judgment be entered in the proceeding until it is determined
1622 whether the application to establish the paper is granted or not. If the application is
1623 granted, then judgment shall be entered as in other proceedings.

1624 (b) In a proceeding as provided for in subsection (a) of this Code section, production of
1625 the paper upon which the proceeding is based shall not be demanded until the time for

1626 rendition of judgment in the proceeding; at that time, if the plaintiff produces a duplicate
1627 of the paper with a certified endorsement thereon by the clerk of the court in which it was
1628 established, as provided in Code Section 24-11-26, it shall be taken and considered as the
1629 original.

1630 (c) This Code section shall not apply to instruments to which Title 11, the 'Uniform
1631 Commercial Code,' is applicable.

1632 24-11-28.

1633 In all proceedings for the purpose of establishing any lost or destroyed paper other than an
1634 office paper, as defined in Code Section 24-11-20, any person whose interest will be
1635 affected by the establishment of the lost paper shall, upon motion, by order of the court, be
1636 made a party respondent in the proceeding and shall be allowed all the rights of defense
1637 against the establishment of the paper as fully as if he or she was the maker of the lost
1638 paper.

1639 24-11-29.

1640 Other than Code Section 24-11-20, this article shall not apply to lost or destroyed papers
1641 to which Title 11, the 'Uniform Commercial Code,' is applicable.

1642 CHAPTER 12

1643 ARTICLE 1

1644 24-12-1.

1645 (a) No physician licensed under Chapter 34 of Title 43 and no hospital or health care
1646 facility, including those operated by an agency or bureau of this state or other governmental
1647 unit, shall be required to release any medical information concerning a patient except to the
1648 Department of Human Resources, its divisions, agents, or successors when required in the
1649 administration of public health programs pursuant to Code Section 31-12-2 and where
1650 authorized or required by law, statute, or lawful regulation; or on written authorization or
1651 other waiver by the patient, or by his or her parents or duly appointed guardian ad litem in
1652 the case of a minor, or on appropriate court order or subpoena; provided, however, that any
1653 physician, hospital, or health care facility releasing information under written authorization
1654 or other waiver by the patient, or by his or her parents or guardian ad litem in the case of
1655 a minor, or pursuant to law, statute, or lawful regulation, or under court order or subpoena
1656 shall not be liable to the patient or any other person; provided, further, that the privilege
1657 shall be waived to the extent that the patient places his or her care and treatment or the
1658 nature and extent of his or her injuries at issue in any judicial proceeding. This Code

section shall not apply to psychiatrists or to hospitals in which the patient is being or has been treated solely for mental illness.

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

24-12-2.

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

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

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

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

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

(c) Confidential raw research data in a researcher's possession shall not be subject to subpoena, otherwise discoverable, or deemed admissible as evidence in any judicial or

administrative proceeding in any court except as otherwise provided in subsection (d) of this Code section.

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

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

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

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

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

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

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

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

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

ARTICLE 224-12-10.As used in this article, the term:

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

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

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

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

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

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

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

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

24-12-11.

The disclosure of confidential or privileged medical matter constituting all or part of a record kept by a health care facility, a nurse, or a physician, pursuant to laws requiring disclosure or pursuant to limited consent to disclosure, shall not serve to destroy or in any

1765 way abridge the confidential or privileged character thereof, except for the purpose for
1766 which such disclosure is made.

1767 24-12-12.

1768 Persons to whom confidential or privileged medical matter is disclosed in the
1769 circumstances described in Code Section 24-12-11 shall utilize such matter only in
1770 connection with the purpose or purposes of such disclosure and thereafter shall keep such
1771 matter in confidence. However, nothing in this article shall prohibit the use of such matter
1772 where otherwise authorized by law.

1773 24-12-13.

1774 Any person, corporation, authority, or other legal entity acting in good faith shall be
1775 immune from liability for the transmission, receipt, or use of medical matter disclosed
1776 pursuant to laws requiring disclosure or pursuant to limited consent to disclosure.

1777 24-12-14.

1778 Nothing in this article shall be construed to prevent the customary and usual audit,
1779 discussion, and presentation of cases in connection with medical and public education.

1780 ARTICLE 3

1781 24-12-20.

1782 AIDS confidential information as defined in Code Section 31-22-9.1 and disclosed or
1783 discovered within the patient-physician relationship shall be confidential and shall not be
1784 disclosed except as otherwise provided in Code Section 24-12-21.

1785 24-12-21.

1786 (a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have
1787 the meaning provided for such term in Code Section 31-22-9.1.

1788 (b) Except as otherwise provided in this Code section:

1789 (1) No person or legal entity which receives AIDS confidential information pursuant to
1790 this Code section or which is responsible for recording, reporting, or maintaining AIDS
1791 confidential information shall:

1792 (A) Intentionally or knowingly disclose that information to another person or legal
1793 entity; or

1794 (B) Be compelled by subpoena, court order, or other judicial process to disclose that
1795 information to another person or legal entity; and

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

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

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

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

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

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

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

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

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

(A) The name and address of that patient;

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

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

(2) When mandatory and nonanonymous reporting of confirmed positive HIV tests to the Department of Human Resources is determined by that department to be reasonably necessary, that department shall establish by regulation a date on and after which such reporting shall be required. On and after the date so established, each health care

provider, health care facility, or any other person or legal entity which orders an HIV test for another person shall report to the Department of Human Resources the name and address of any person thereby determined to be infected with HIV. No such report shall be made regarding any confirmed positive HIV test provided at any anonymous HIV test site operated by or on behalf of the Department of Human Resources.

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

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

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

(C) Shall contact and provide counseling to the spouse of any HIV infected person whose name is thus disclosed if both persons are reasonably likely to have engaged in sexual intercourse or any other act determined by the Department of Human Resources likely to have resulted in the transmission of HIV between such persons within the preceding seven years and if that spouse may be located and contacted without undue difficulty.

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

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

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

1869 (j) A health care provider or any other person or legal entity authorized but not required
1870 to disclose AIDS confidential information pursuant to this Code section shall have no duty
1871 to make such disclosure and shall not be liable to the patient or any other person or legal
1872 entity for failing to make such disclosure. A health care provider or any other person or
1873 legal entity which discloses information as authorized or required by this Code section or
1874 as authorized or required by law or rules or regulations made pursuant thereto shall have
1875 no civil or criminal liability therefor.

1876 (k) When any person or legal entity is authorized or required by this Code section or any
1877 other law to disclose AIDS confidential information to a person at risk of being infected
1878 with HIV and that person at risk is a minor or incompetent person, such disclosure may be
1879 made to any parent or legal guardian of the minor or incompetent person, to the minor or
1880 incompetent person, or to both the minor or incompetent person and any parent or legal
1881 guardian thereof.

1882 (l) When an institutional care facility is the site at which a person is at risk of being
1883 infected with HIV and as a result of that risk a disclosure of AIDS confidential information
1884 to any person at risk at that site is authorized or required under this Code section or any
1885 other law, such disclosure may be made to the person at risk or to that institutional care
1886 facility's chief administrative or executive officer, or such officer's designee, in which case
1887 that officer or designee shall be authorized to make such disclosure to the person at risk.

1888 (m) When a disclosure of AIDS confidential information is authorized or required by this
1889 Code section to be made to a physician, health care provider, or legal entity, that disclosure
1890 may be made to employees of that physician, health care provider, or legal entity who have
1891 been designated thereby to receive such information on behalf thereof. Those designated
1892 employees may thereafter disclose to and provide for the disclosure of that information
1893 among such other employees of that physician, health care provider, or legal entity, but
1894 such disclosures among those employees shall only be authorized when reasonably
1895 necessary in the ordinary course of business to carry out the purposes for which that
1896 disclosure is authorized or required to be made to that physician, health care provider, or
1897 legal entity.

1898 (n) Any disclosure of AIDS confidential information authorized or required by this Code
1899 section or any other law and any unauthorized disclosure of such information shall in no
1900 way destroy the confidential nature of that information except for the purpose for which
1901 the authorized or required disclosure is made.

1902 (o) Any person or legal entity which violates subsection (b) of this Code section shall be
1903 guilty of a misdemeanor.

1904 (p) Nothing in this Code section or any other law shall be construed to authorize the
1905 disclosure of AIDS confidential information if that disclosure is prohibited by federal law.

1906 or regulations promulgated thereunder, nor shall anything in this Code section or any other
1907 law be construed to prohibit the disclosure of information which would be AIDS
1908 confidential information except that such information does not permit the identification of
1909 any person.

1910 (q) A public safety agency or prosecuting attorney may obtain the results from an HIV test
1911 to which the person named in the request has submitted under Code Section 15-11-66.1,
1912 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be contained in a
1913 sealed record.

1914 (r) Any person or legal entity required by an order of a court to disclose AIDS confidential
1915 information in the custody or control of such person or legal entity shall disclose that
1916 information as required by that order.

1917 (s) AIDS confidential information shall be disclosed as medical information pursuant to
1918 Code Section 24-12-1 or pursuant to any other law which authorizes or requires the
1919 disclosure of medical information if:

1920 (1) The person identified by that information:

1921 (A) Has consented in writing to that disclosure; or

1922 (B) Has been notified of the request for disclosure of that information at least ten days
1923 prior to the time the disclosure is to be made and does not object to such disclosure
1924 prior to the time specified for that disclosure in that notice; or

1925 (2) A superior court in an in camera hearing finds by clear and convincing evidence a
1926 compelling need for the information which cannot be accommodated by other means. In
1927 assessing compelling need, the court shall weigh the public health, safety, or welfare
1928 needs or any other public or private need for the disclosure against the privacy interest
1929 of the person identified by the information and the public interest which may be disserved
1930 by disclosures which may deter voluntary HIV tests. If the court determines that
1931 disclosure of that information is authorized under this paragraph, the court shall order that
1932 disclosure and impose appropriate safeguards against any unauthorized disclosure. The
1933 records of that hearing otherwise shall be under seal.

1934 (t)(1) A superior court of this state may order a person or legal entity to disclose AIDS
1935 confidential information in its custody or control to:

1936 (A) A prosecutor in connection with a prosecution for the alleged commission of
1937 reckless conduct under subsection (c) of Code Section 16-5-60;

1938 (B) Any party in a civil proceeding; or

1939 (C) A public safety agency or the Department of Human Resources if that agency or
1940 department has an employee thereof who has, in the course of that employment, come
1941 in contact with the body fluids of the person identified by the AIDS confidential
1942 information sought in such a manner reasonably likely to cause that employee to

1943 become an HIV infected person and provided the disclosure is necessary for the health
1944 and safety of that employee,
1945 and, for purposes of this subsection, the term 'petitioner for disclosure' means any person
1946 or legal entity specified in subparagraph (A), (B), or (C) of this paragraph.
1947 (2) An order may be issued against a person or legal entity responsible for recording,
1948 reporting, or maintaining AIDS confidential information to compel the disclosure of that
1949 information if the petitioner for disclosure demonstrates by clear and convincing evidence
1950 a compelling need for the information which cannot be accommodated by other means.
1951 In assessing compelling need, the court shall weigh the public health, safety, or welfare
1952 needs or any other public or private need for the disclosure against the privacy interest
1953 of the person identified by the information and the public interest which may be disserved
1954 by disclosures which may deter voluntary HIV tests.
1955 (3) A petition seeking disclosure of AIDS confidential information under this subsection
1956 shall substitute a pseudonym for the true name of the person concerning whom the
1957 information is sought. The disclosure to the parties of that person's true name shall be
1958 communicated confidentially, in documents not filed with the court.
1959 (4) Before granting any order under this subsection, the court shall provide the person
1960 concerning whom the information is sought with notice and a reasonable opportunity to
1961 participate in the proceedings if that person is not already a party.
1962 (5) Court proceedings as to disclosure of AIDS confidential information under this
1963 subsection shall be conducted in camera unless the person concerning whom the
1964 information is sought agrees to a hearing in open court.
1965 (6) Upon the issuance of an order that a person or legal entity be required to disclose
1966 AIDS confidential information regarding a person named in that order, that person or
1967 entity so ordered shall disclose to the ordering court any such information which is in the
1968 control or custody of that person or entity and which relates to the person named in the
1969 order for the court to make an in camera inspection thereof. If the court determines from
1970 that inspection that the person named in the order is an HIV infected person, the court
1971 shall disclose to the petitioner for disclosure that determination and shall impose
1972 appropriate safeguards against unauthorized disclosure which shall specify the persons
1973 who may have access to the information, the purposes for which the information shall be
1974 used, and appropriate prohibitions on future disclosure.
1975 (7) The record of the proceedings under this subsection shall be sealed by the court.
1976 (8) An order may not be issued under this subsection against the Department of Human
1977 Resources, any county board of health, or any anonymous HIV test site operated by or
1978 on behalf of that department.

1979 (u) A health care provider, health care facility, or other person or legal entity who, in
1980 violation of this Code section, unintentionally discloses AIDS confidential information,
1981 notwithstanding the maintenance of procedures thereby which are reasonably adopted to
1982 avoid risk of such disclosure, shall not be civilly or criminally liable, unless such disclosure
1983 was due to gross negligence or wanton and willful misconduct.

1984 (v) AIDS confidential information may be disclosed when that disclosure is otherwise
1985 authorized or required by Code Section 42-1-6, if AIDS or HIV infection is the
1986 communicable disease at issue, or when that disclosure is otherwise authorized or required
1987 by any law which specifically refers to 'AIDS confidential information,' 'HIV test results,'
1988 or any similar language indicating a legislative intent to disclose information specifically
1989 relating to AIDS or HIV.

1990 (w) A health care provider who has received AIDS confidential information regarding a
1991 patient from the patient's health care provider directly or indirectly under the provisions of
1992 subsection (i) of this Code section may disclose that information to a health care provider
1993 which has provided, is providing, or will provide any health care service to that patient and
1994 as a result of that provision of service that health care provider:

1995 (1) Has personnel or patients who may be persons at risk of being infected with HIV by
1996 that patient, if that patient is an HIV infected person and such disclosure is reasonably
1997 necessary to protect any such personnel or patients from that risk; or

1998 (2) Has a legitimate need for that information in order to provide that health care service
1999 to that patient.

2000 (x) Neither the Department of Human Resources nor any county board of health shall
2001 disclose AIDS confidential information contained in its records unless such disclosure is
2002 authorized or required by this Code section or any other law, except that such information
2003 in those records shall not be a public record and shall not be subject to disclosure through
2004 subpoena, court order, or other judicial process.

2005 (y) The protection against disclosure provided by Code Section 24-12-20 shall be waived
2006 and AIDS confidential information may be disclosed to the extent that the person identified
2007 by such information, his or her heirs, successors, assigns, or a beneficiary of such person,
2008 including, but not limited to, an executor, administrator, or personal representative of such
2009 person's estate:

2010 (1) Files a claim or claims other entitlements under any insurance policy or benefit plan
2011 or is involved in any civil proceeding regarding such claim;

2012 (2) Places such person's care and treatment, the nature and extent of his or her injuries,
2013 the extent of his or her damages, his or her medical condition, or the reasons for his or her
2014 death at issue in any judicial proceeding; or

2015 (3) Is involved in a dispute regarding coverage under any insurance policy or benefit
2016 plan.

2017 (z) AIDS confidential information may be collected, used, and disclosed by an insurer in
2018 accordance with the provisions of Chapter 39 of Title 33.

2019 (aa) In connection with any judicial proceeding in which AIDS confidential information
2020 is disclosed as authorized or required by this Code section, the party to whom that
2021 information is thereby disclosed may subpoena any person to authenticate such AIDS
2022 confidential information, establish a chain of custody relating thereto, or otherwise testify
2023 regarding that information, including, but not limited to, testifying regarding any
2024 notifications to the patient regarding results of an HIV test. The provisions of this
2025 subsection shall apply as to records, personnel, or both of the Department of Human
2026 Resources or a county board of health notwithstanding Code Section 50-18-72, but only
2027 as to test results obtained by a prosecutor under subsection (q) of this Code section and to
2028 be used thereby in a prosecution for reckless conduct under subsection (c) of Code Section
2029 16-5-60.

2030 (bb) AIDS confidential information may be disclosed as a part of any proceeding or
2031 procedure authorized or required pursuant to Chapter 3, 4, or 7 of Title 37, regarding a
2032 person who is alleged to be or who is mentally ill, mentally retarded, or alcoholic or drug
2033 dependent, or as a part of any proceeding or procedure authorized or required pursuant to
2034 Title 29, regarding the guardianship of a person or that person's estate, as follows:

2035 (1) Any person who files or transmits a petition or other document which discloses AIDS
2036 confidential information in connection with any such proceeding or procedure shall
2037 provide a cover page which contains only the type of proceeding or procedure, the court
2038 in which the proceeding or procedure is or will be pending, and the words
2039 'CONFIDENTIAL INFORMATION' without in any way otherwise disclosing thereon
2040 the name of any individual or that such petition or other document specifically contains
2041 AIDS confidential information;

2042 (2) AIDS confidential information shall only be disclosed pursuant to this subsection
2043 after disclosure to and with the written consent of the person identified by that
2044 information, or that person's parent or guardian if that person is a minor or has previously
2045 been adjudicated as being incompetent, or by order of court obtained in accordance with
2046 subparagraph (C) of paragraph (3) of this subsection;

2047 (3) If any person files or transmits a petition or other document in connection with any
2048 such proceeding or procedure which discloses AIDS confidential information without
2049 obtaining consent as provided in paragraph (2) of this subsection, the court receiving such
2050 information shall either obtain written consent as set forth in that paragraph (2) for any
2051 further use or disclosure of such information or;

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

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

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

(ii) The superior court in which a petition is filed pursuant to division (i) of this subparagraph shall hold an in camera hearing on such petition. The purpose of the hearing shall be to determine whether there is clear and convincing evidence of a compelling need for the AIDS confidential information sought in connection with the particular proceeding or procedure which cannot be accommodated by other means. In assessing compelling need, the superior court shall weigh the public health, safety, or welfare needs or any other public or private need for the disclosure against the privacy interest of the person identified by the information and the public interest which may be disserved by disclosures which may deter voluntary HIV tests. If the court determines that disclosure of that information is authorized under this subparagraph, the court shall order that disclosure and impose appropriate safeguards against any unauthorized disclosure. The records of that hearing otherwise shall be under seal; and

(4) The court having jurisdiction over such proceeding or procedure, when it becomes apparent that AIDS confidential information will likely be or has been disclosed in connection with such proceeding or procedure, shall take such measures as the court determines appropriate to preserve the confidentiality of the disclosed information to the maximum extent possible. Such measures shall include, without being limited to, closing the proceeding or procedure to the public and sealing all or any part of the records of the proceeding or procedure containing AIDS confidential information. The records of any

2089 appeals taken from any such proceeding or procedure shall also be sealed. Furthermore,
2090 the court may consult with and obtain the advice of medical experts or other counsel or
2091 advisers as to the relevance and materiality of such information in such proceedings or
2092 procedures, provided that the identity of the person identified by such information is not
2093 thereby revealed.

2094 ARTICLE 4

2095 24-12-30.

2096 (a) Circulation and similar records of a library which identify the user of library materials
2097 shall not be public records but shall be confidential and shall not be disclosed except:

2098 (1) To members of the library staff in the ordinary course of business;

2099 (2) Upon written consent of the user of the library materials or the user's parents or
2100 guardian if the user is a minor or ward; or

2101 (3) Upon appropriate court order or subpoena.

2102 (b) Any disclosure authorized by subsection (a) of this Code section or any unauthorized
2103 disclosure of materials made confidential by subsection (a) of this Code section shall not
2104 in any way destroy the confidential nature of that material, except for the purpose for which
2105 an authorized disclosure is made. A person disclosing material as authorized by subsection
2106 (a) of this Code section shall not be liable therefor.

2107 24-12-31.

2108 No veterinarian licensed under Chapter 50 of Title 43 shall be required to disclose any
2109 information concerning the veterinarian's care of an animal except on written authorization
2110 or other waiver by the veterinarian's client or on appropriate court order or subpoena. Any
2111 veterinarian releasing information under written authorization or other waiver by the client
2112 or under court order or subpoena shall not be liable to the client or any other person. The
2113 confidentiality provided by this Code section shall be waived to the extent that the
2114 veterinarian's client places the veterinarian's care and treatment of the animal or the nature
2115 and extent of injuries to the animal at issue in any judicial proceeding. As used in this
2116 Code section, the term 'client' means the owner of the animal; or if the owner of the animal
2117 is unknown, client means the person who presents the animal to the veterinarian for care
2118 and treatment.

CHAPTER 13ARTICLE 124-13-1.

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

24-13-2.

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

24-13-3.

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

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

24-13-4.

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

24-13-5.

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

2151 court, the witness shall be deemed to have complied with the notice to produce or subpoena
2152 for the production of evidence.

2153 24-13-6.

2154 When the transcript provided for in Code Section 24-13-5 is produced in court, if the
2155 adverse party is dissatisfied therewith and swears that he or she believes that the books
2156 contain entries material to the adverse party which do not appear in the transcript, the court
2157 shall grant him or her a commission directed to certain persons named by the parties and
2158 approved by the court. The commission shall cause the person with possession of the
2159 books to produce the books required with the person swearing that the books produced are
2160 all that he or she has or had that answer to the description in the subpoena or notice to
2161 produce. The commission shall examine the books and transmit to the court a full and fair
2162 statement of the accounts and entries between the parties under their hand. When received
2163 by the court, the statement of the commission shall be deemed a compliance with the notice
2164 to produce or subpoena for the production of evidence.

2165 24-13-7.

2166 Parties interested and participating in the trial of all cases tried in the courts are authorized
2167 and empowered, on the order of the court trying the case, to withdraw from the court and
2168 record of the case all original deeds, maps, blueprints, notes, papers, and documents
2169 belonging to the parties and which are introduced in evidence on the trial, on substituting
2170 therefor, when required by the court, duplicates thereof, verified as such by the parties or
2171 their agents, representatives, or attorneys. However, if any such deeds, maps, blueprints,
2172 notes, papers, or documents shall be attacked by any party to the case as forgeries, or as not
2173 being genuine originals, it shall be in the discretion of the court to require the original
2174 deeds, maps, blueprints, notes, papers, or documents so attacked to remain on file in the
2175 court as a part of the record in the case.

2176 ARTICLE 2

2177 24-13-20.

2178 This article shall apply to all civil proceedings and, insofar as consistent with the
2179 Constitution, to all criminal proceedings.

2180 24-13-21.

2181 (a) As used in this Code section, the term 'subpoena' includes a witness subpoena and a
2182 subpoena for the production of evidence.

2183 (b) A subpoena shall state the name of the court, the name of the clerk, and the title of the
2184 proceeding and shall command each person to whom it is directed to attend and give
2185 testimony or produce evidence at a time and place specified by the subpoena.

2186 (c) The clerk of court shall make subpoenas in blank available on demand by electronic
2187 or other means to parties or their counsel or to the grand jury.

2188 (d) An attorney who is counsel of record in a proceeding may issue and sign a subpoena
2189 obtained by electronic or other means from the clerk of court as an officer of a court for
2190 any deposition, hearing, or trial held in conjunction with such proceeding.

2191 (e) A district attorney may issue, and upon the request of the grand jury shall issue, a
2192 subpoena in grand jury proceedings.

2193 (f) A subpoena shall be completed prior to being served.

2194 (g) Subpoenas are enforceable as provided in Code Section 24-13-26.

2195 (h) If an individual misuses a subpoena, he or she shall be subject to punishment for
2196 contempt of court and shall be punished by a fine of not more than \$300.00 or not more
2197 than 20 days imprisonment, or both.

2198 24-13-22.

2199 At the request of any party, subpoenas for attendance at a hearing or trial shall be issued
2200 under the authority of the clerk of the court in which the hearing or trial is held. A
2201 subpoena requiring the attendance of a witness at a hearing or trial may be served at any
2202 place within this state.

2203 24-13-23.

2204 (a) A subpoena may also command the person to whom it is directed to produce the
2205 evidence designated therein.

2206 (b) The court, upon written motion made promptly and in any event at or before the time
2207 specified in the subpoena for compliance therewith, may:

2208 (1) Quash or modify the subpoena if it is unreasonable and oppressive; or

2209 (2) Condition denial of the motion upon the advancement by the person in whose behalf
2210 the subpoena is issued of the reasonable cost of producing the evidence.

2211 24-13-24.

2212 A subpoena may be served by any sheriff, by his or her deputy, or by any other person not
2213 less than 18 years of age. Proof may be shown by return or certificate endorsed on a copy
2214 of the subpoena. Subpoenas may also be served by registered or certified mail or statutory
2215 overnight delivery, and the return receipt shall constitute prima-facie proof of service.
2216 Service upon a party may be made by serving his or her counsel of record.

2217 24-13-25.

2218 Except as provided in Code Section 24-13-28, the witness fee shall be \$25.00 per diem, and
2219 execution shall be issued by the clerk upon affidavit of the witness to enforce payment
2220 thereof. The payment of witness fees shall not be demanded as a condition precedent to
2221 attendance; but, when a witness resides outside the county where the testimony is to be
2222 given, service of the subpoena, to be valid, shall be accompanied by tender of the witness
2223 fee for one day's attendance plus mileage of 45¢ per mile for traveling expenses for going
2224 from and returning to his or her place of residence by the nearest practical route. Tender
2225 of witness fees and mileage may be made by United States currency, postal money order,
2226 cashier's check, certified check, or the check of an attorney or law firm. When the
2227 subpoena is issued on behalf of this state, or an officer, agency, or political subdivision
2228 thereof, or an accused in a criminal proceeding, witness fees and mileage need not be
2229 tendered.

2230 24-13-26.

2231 (a) Subpoenas may be enforced by attachment for contempt and by a fine of not more than
2232 \$300.00 or not more than 20 days imprisonment, or both. In all proceedings under this
2233 Code section, the court shall consider whether under the circumstances of each proceeding
2234 the subpoena was served within a reasonable time, but in any event not less than 24 hours
2235 prior to the time that appearance thereunder was required.

2236 (b) The court may also in appropriate proceedings grant continuance of the proceeding.
2237 Where subpoenas were issued in blank, no continuance shall be granted because of failure
2238 to respond thereto when the party obtaining such subpoenas fails to present to the clerk the
2239 name and address of the witness so subpoenaed at least six hours before appearance is
2240 required.

2241 (c) When evidence is unsuccessfully sought, secondary evidence thereof shall be
2242 admissible.

2243 24-13-27.

2244 Where a party desires to compel production of evidence in the possession, custody, or
2245 control of another party, in lieu of serving a subpoena under this article, the party desiring
2246 the production may serve a notice to produce upon counsel for the other party. Service
2247 may be perfected in accordance with Code Section 24-13-24, but no witness fees or
2248 mileage shall be allowed therefor. Such notices may be enforced in the manner prescribed
2249 by Code Section 24-13-26, and Code Section 24-13-23 shall also apply to such notices.
2250 The notice shall be in writing, signed by the party seeking production of the evidence, or
2251 the party's attorney, and shall be directed to the opposite party or his or her attorney.

2252 24-13-28.

2253 (a) As used in this Code section, the term:

2254 (1) 'Director' means the appropriate chief of police, sheriff, director of public safety of
2255 a college or university, local fire chief, director of the Georgia Bureau of Investigation,
2256 the commanding officer of the Georgia State Patrol, the commissioner of natural
2257 resources, the superintendent of a correctional institution, or the state fire marshal.

2258 (2) 'Law enforcement officer' means any member of a municipal or county police force,
2259 any deputy sheriff, any campus policeman as defined in Code Section 20-8-1, any
2260 member of a local fire department, any member of the Georgia State Patrol or Georgia
2261 Bureau of Investigation, any correctional officer, any person employed by the
2262 Department of Natural Resources as a law enforcement officer, or any arson investigator
2263 of the state fire marshal's office.

2264 (3) 'Regular duty hours' means the daily shift of duty to which a law enforcement officer
2265 is assigned and shall not include paid or unpaid vacation, paid or unpaid sick leave, paid
2266 or unpaid holiday leave, or any other paid or unpaid leave status established pursuant to
2267 the personnel regulations or scheduling practices of the employing agency.

2268 (b) Any law enforcement officer who shall be required by subpoena to attend any superior
2269 court, other courts having jurisdiction to enforce the penal laws of this state, municipal
2270 court having jurisdiction to enforce the penal laws of this state as provided by Code Section
2271 40-13-21, juvenile court, grand jury, hearing or inquest held or called by a coroner, or
2272 magistrate court involving any criminal matter, as a witness on behalf of the state during
2273 any hours except the regular duty hours to which the officer is assigned, shall be paid for
2274 such attendance at a fixed rate to be established by the governing authority, but not less
2275 than \$25.00 per diem. The claim for the witness fees shall be endorsed on the subpoena
2276 showing the dates of attendance and stating that attendance was required during the hours
2277 other than the regular duty hours to which the claimant was assigned. The claimant shall
2278 verify this statement. The dates of attendance shall be certified by the judge or the
2279 prosecuting attorney of the court attended. The director or his or her designee shall certify
2280 that the claimant has not received any overtime pay for his or her attendance and that his
2281 or her attendance was required during hours other than regular duty hours. The amount due
2282 shall be paid by the governing body authorized to dispense public funds for the operation
2283 of the court. However, no such law enforcement officer shall claim or receive more than
2284 one witness fee per day for attendance in any court or before the grand jury regardless of
2285 the number of subpoenas which the law enforcement officer may have received requiring
2286 such officer to appear in such court or before the grand jury on any one day.

2287 (c)(1) Except as provided in paragraph (2) of this subsection, any law enforcement
2288 officer who shall be required by subpoena to attend any court of this state with respect

to any civil proceeding, as a witness concerning any matter relative to the law enforcement duties of such law enforcement officer during any hours except the regular duty hours to which the law enforcement officer is assigned, shall be paid for such attendance at a fixed rate to be established by the governing authority, but not less than \$25.00 per diem. Any such law enforcement officer shall also be entitled to the mileage allowance provided in Code Section 24-13-25 when such law enforcement officer resides outside the county where the testimony is to be given. The claim for the witness fees shall be endorsed on the subpoena showing the dates of attendance and stating that attendance was required during the hours other than the regular duty hours to which the claimant was assigned. The claimant shall verify such statement. The dates of attendance shall be certified by the party obtaining the subpoena. The director or his or her designee shall certify that the claimant has not received any overtime pay for the law enforcement officer's attendance and that such law enforcement officer's attendance was required during hours other than regular duty hours.

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

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

24-13-29.

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

ARTICLE 3

24-13-60.

(a) When a prisoner confined in any state prison, county correctional institution, or other penal institution under the jurisdiction of the Board of Corrections, other than a prisoner under a death sentence, is needed as a witness in any judicial proceeding in any court of record in this state or when it is desired that such person stand trial on an indictment or accusation charging the prisoner with commission of a felony or misdemeanor, the judge of the court wherein the proceeding is pending shall be authorized to and shall issue an ex parte order, directed to the commissioner of corrections, requiring the prisoner's delivery

2323 to the sheriff of the county where the prisoner is desired as a witness or accused. The
2324 sheriff or his or her deputies shall take custody of the prisoner on the date named in the
2325 order, safely keep the prisoner pending the proceeding, and return him or her to the original
2326 place of detention after the prisoner's discharge by the trial judge.

2327 (b) If the prisoner was desired as a witness by this state in a criminal proceeding or if the
2328 prisoner's release to the sheriff was for the purpose of standing trial on criminal charges,
2329 the county wherein the proceeding was pending shall pay all expenses of transportation and
2330 keeping, including per diem and mileage of the sheriff, jail fees, and any other proper
2331 expense approved by the trial judge.

2332 (c) If the prisoner was desired as a witness by the accused in a criminal proceeding or by
2333 either party to a civil proceeding, the costs and expenses referred to in subsection (b) of this
2334 Code section shall be borne by the party requesting the prisoner as a witness. The court
2335 shall require a deposit of money sufficient to defray same, except where the judge, after
2336 examining into the matter, determines that the prisoner's presence is required by the
2337 interests of justice and that the party requesting it is financially unable to make the deposit,
2338 in which case the expenses shall be taxed as costs of court.

2339 (d) If a prisoner under a death sentence is needed as a witness for either the prosecution
2340 or the defense in any felony case, the requesting party may interview the proposed witness.
2341 Following such interview, the requesting party may move for a writ of habeas corpus ad
2342 testificandum. Such motion shall be accompanied by a proffer of the testimony of the
2343 proposed witness. The requesting party shall make such motion and proffer as soon as
2344 possible but shall not make such motion later than 20 days prior to the date of the trial.
2345 Nothing in this Code section shall limit the right of a party from presenting a material
2346 witness at a hearing or trial and to have compulsory process for that purpose.

2347 24-13-61.

2348 Any judge of the superior court may issue an order to any officer having a lawfully
2349 imprisoned person in his or her custody, requiring the production of such person before the
2350 court for the purpose of giving evidence in any criminal cause pending therein, without any
2351 formal application or writ of habeas corpus ad testificandum for that purpose.

2352 24-13-62.

2353 The writ of habeas corpus ad testificandum may be issued by the superior court to cause
2354 the production in court of any witness under legal imprisonment.

ARTICLE 424-13-90.

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

24-13-91.

As used in this article, the term:

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

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

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

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

24-13-92.

(a) If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certifies under the seal of such court that there is a criminal prosecution pending in such court or that a grand jury investigation has commenced or is about to commence, that a person within this state is a material witness in such prosecution or grand jury investigation, and that the witness's presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which the person is found, such judge shall fix a time and place for a hearing and shall make an order directing the witness to appear at a time and place certain for the hearing. The witness shall at all times be entitled to counsel.

(b) If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and the laws of the state in which the prosecution is pending or grand jury investigation has commenced or is about to commence will give to such witness protection from arrest and the service of civil and criminal process, the judge shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending or where a grand jury investigation has commenced or is about to commence at a time and

2389 place specified in the summons. In any such hearing, the certificate shall be prima-facie
2390 evidence of all the facts stated therein.

2391 (c) If such certificate recommends that the witness be taken into immediate custody and
2392 delivered to an officer of the requesting state to assure the witness's attendance in the
2393 requesting state, such judge may, in lieu of notification of the hearing, direct that the
2394 witness be forthwith brought before him or her for the hearing; and the judge at the hearing
2395 being satisfied of the desirability of such custody and delivery, for which determination the
2396 certificate shall be prima-facie proof of such desirability, may, in lieu of issuing subpoena
2397 or summons, order that the witness be forthwith taken into custody and delivered to an
2398 officer of the requesting state.

2399 (d) If the witness, who is summoned as above provided, after being paid or tendered by
2400 some properly authorized person the sum of 45¢ a mile for each mile by the ordinarily
2401 traveled route to and from the court where the prosecution is pending and \$25.00 for each
2402 day that the witness is required to travel and attend as a witness, fails without good cause
2403 to attend and testify as directed in the summons, the witness shall be punished in the
2404 manner provided for in Code Section 24-13-26.

2405 24-13-93.

2406 (a) A judge of a state court of record in another state which by its laws has made provision
2407 for commanding persons confined in penal institutions within that state to attend and testify
2408 in this state may certify that there is a criminal proceeding or investigation by a grand jury
2409 or a criminal proceeding pending in the court, that a person who is confined in a penal
2410 institution in this state is a material witness in the proceeding or investigation, and that the
2411 witness's presence will be required during a specified time. Upon presentation of the
2412 certificate to any judge having jurisdiction over the person confined and upon notice to the
2413 Attorney General, the judge in this state shall fix a time and place for a hearing and shall
2414 make an order directed to the person having custody of the prisoner requiring that the
2415 prisoner be produced before him or her at the hearing.

2416 (b) If at the hearing the judge determines that the witness is material and necessary, that
2417 the witness attending and testifying are not adverse to the interest of this state or to the
2418 health and legal rights of the witness, that the laws of the state in which the witness is
2419 required to testify will give the witness protection from arrest and the service of civil and
2420 criminal process because of any act committed prior to the witness's arrival in the state
2421 under the order, and that as a practical matter the possibility is negligible that the witness
2422 may be subject to arrest or to the service of civil or criminal process in any state through
2423 which the witness will be required to pass, the judge shall issue an order, with a copy of the
2424 certificate attached, directing the witness to attend and testify, directing the person having

2425 custody of the witness to produce the witness in the court where the criminal proceeding
2426 is pending or where the grand jury investigation is pending at a time and place specified
2427 in the order, and prescribing such conditions as the judge shall determine. The judge, in
2428 lieu of directing the person having custody of the witness to produce the witness in the
2429 requesting jurisdiction's court, may direct and require in the court's order that the requesting
2430 jurisdiction shall come to the Georgia penal institution in which the witness is confined to
2431 accept custody of the witness for physical transfer to the requesting jurisdiction; that the
2432 requesting jurisdiction shall provide proper safeguards on the witness's custody while in
2433 transit; that the requesting jurisdiction shall be liable for and shall pay all expenses incurred
2434 in producing and returning the witness, including, but not limited to, food, lodging,
2435 clothing, and medical care; and that the requesting jurisdiction shall promptly deliver the
2436 witness back to the same or another Georgia penal institution as specified by the
2437 Department of Corrections at the conclusion of his or her testimony.

2438 (c) The order to the witness and to the person having custody of the witness shall provide
2439 for the return of the witness at the conclusion of his or her testimony, proper safeguards on
2440 his or her custody, and proper financial reimbursement or prepayment by the requesting
2441 jurisdiction of all expenses incurred in the production and return of the witness and may
2442 prescribe such other conditions as the judge thinks proper or necessary. If the judge directs
2443 and requires the requesting jurisdiction to accept custody of the witness at the Georgia
2444 penal institution in which the witness is confined and to deliver the witness back to the
2445 same or another Georgia penal institution at the conclusion of the witness's testimony, no
2446 prepayment of expenses shall be necessary. The order shall not become effective until the
2447 judge of the state requesting the witness enters an order directing compliance with the
2448 conditions prescribed.

2449 (d) This Code section shall not apply to any person in this state confined as insane or
2450 mentally ill or under sentence of death.

2451 24-13-94.

2452 (a) If a person in any state which by its laws has made provision for commanding persons
2453 within its borders to attend and testify in criminal prosecutions or grand jury investigations
2454 commenced or about to commence in this state is a material witness in a prosecution
2455 pending in a court of record in this state or in a grand jury investigation which has
2456 commenced or is about to commence a judge of such court may issue a certificate under
2457 the seal of the court stating these facts and specifying the number of days the witness will
2458 be required. The certificate may include a recommendation that the witness be taken into
2459 immediate custody and delivered to an officer of this state to assure attendance in this state.

2460 This certificate shall be presented to a judge of a court of record in the county in which the
2461 witness is found.

2462 (b) If the witness is summoned to attend and testify in this state, the witness shall be
2463 tendered the sum of 45¢ a mile for each mile by the ordinarily traveled route to and from
2464 the court where the prosecution is pending and \$25.00 for each day that the witness is
2465 required to travel and attend as a witness. A witness who has appeared in accordance with
2466 the provisions of the summons shall not be required to remain within this state for a longer
2467 period of time than the period mentioned in the certificate, unless otherwise ordered by the
2468 court. If such witness, after coming into this state, fails without good cause to attend and
2469 testify as directed in the summons, the witness shall be punished in the manner provided
2470 for in Code Section 24-13-26.

2471 24-13-95.

2472 (a) If a person confined in a penal institution in any other state is a material witness in a
2473 criminal proceeding pending in a court of record or in a grand jury investigation in this
2474 state, a judge of the court may certify that there is a criminal proceeding or investigation
2475 by a grand jury or a criminal proceeding pending in the court, that a person who is confined
2476 in a penal institution in the other state is a material witness in the proceeding or
2477 investigation, and that the witness's presence will be required during a specified time. The
2478 certificate shall be presented to a judge of a court of record in the other state having
2479 jurisdiction over the confined prisoner, and a notice shall be given to the attorney general
2480 of the state in which the prisoner is confined.

2481 (b) The judge of the court in this state may enter an order directing compliance with the
2482 terms and conditions prescribed by the judge of the state in which the witness is confined.

2483 24-13-96.

2484 (a) If a person comes into this state in obedience to a summons directing him or her to
2485 attend and testify in this state, such person shall not while in this state pursuant to such
2486 summons be subject to arrest or the service of process, civil or criminal, in connection with
2487 matters which arose before such person's entrance into this state under the summons.

2488 (b) If a person passes through this state while going to another state in obedience to a
2489 summons to attend and testify in that state or while returning therefrom, he or she shall not
2490 while so passing through this state be subject to arrest or the service of process, civil or
2491 criminal, in connection with matters which arose before such person's entrance into this
2492 state under the summons.

2493 24-13-97.

2494 This article shall be interpreted and construed so as to effectuate its general purpose to
2495 make uniform the laws of the states which enact it and shall be applicable only to such
2496 states as shall enact reciprocal powers to this state relative to the matter of securing
2497 attendance of witnesses as provided in this article.

2498 ARTICLE 5

2499 24-13-110.

2500 This article shall be known and may be cited as the 'Uniform Foreign Depositions Act.'

2501 24-13-111.

2502 Whenever any mandate, writ, or commission is issued out of any court of record in any
2503 other state, territory, district, or foreign jurisdiction, or whenever upon notice or agreement
2504 such court of record is required to take the testimony of a witness in this state, such witness
2505 may be compelled to appear and testify in the same manner and by the same process and
2506 proceeding as may be employed for the purpose of taking testimony in proceedings
2507 pending in this state.

2508 24-13-112.

2509 This article shall be interpreted and construed so as to effectuate its general purposes to
2510 make uniform the laws of those states which enact it.

2511 ARTICLE 6

2512 24-13-130.

2513 (a)(1) At any time after an accused has been charged with an offense against the laws of
2514 this state or an ordinance of any political subdivision or authority thereof, upon motion
2515 of the state or the accused, the court having jurisdiction to try the offense charged may,
2516 after notice to the parties, order that the testimony of a prospective material witness of a
2517 party be taken by deposition and that any designated evidence not privileged be produced
2518 at the same time and place.

2519 (2) At any time after an accused has been charged with an offense of child molestation,
2520 aggravated child molestation, or physical or sexual abuse of a child, upon motion of the
2521 state or the accused, the court having jurisdiction to try the offense charged may, after
2522 notice to the parties, order that the testimony of any physician whose testimony is

2523 relevant to such charge be taken by deposition and that any designated evidence not
2524 privileged be produced at the same time and place.

2525 (b) The court shall not order the taking of the witness's testimony, except as provided in
2526 paragraph (2) of subsection (a) of this Code section, unless it appears to the satisfaction of
2527 the court that the testimony of the witness is material to the proceeding and the witness:

2528 (1) Is in imminent danger of death;
2529 (2) Has been threatened with death or great bodily harm because of the witness's status
2530 as a potential witness in a criminal trial or proceeding;
2531 (3) Is about to leave this state and there are reasonable grounds to believe that such
2532 witness will be unable to attend the trial;
2533 (4) Is so sick or infirm as to afford reasonable grounds to believe that such witness will
2534 be unable to attend the trial; or
2535 (5) Is being detained as a material witness and there are reasonable grounds to believe
2536 that the witness will flee if released from detention.

2537 (c) A motion to take a deposition of a material witness, or a physician as provided in
2538 paragraph (2) of subsection (a) of this Code section, shall be verified and shall state:

2539 (1) The nature of the offense charged;
2540 (2) The status of the criminal proceedings;
2541 (3) The name of the witness and an address in Georgia where the witness may be
2542 contacted;
2543 (4) That the testimony of the witness is material to the proceeding or that the witness is
2544 a physician as provided in paragraph (2) of subsection (a) of this Code section; and
2545 (5) The basis for taking the deposition as provided in subsection (b) of this Code section.

2546 (d) A motion to take a deposition shall be filed in the court having jurisdiction to try the
2547 accused for the offense charged; provided, however, that if the accused is charged with
2548 multiple offenses, only the court having jurisdiction to try the most serious charge against
2549 the accused shall have jurisdiction to hear and decide the motion to take a deposition.

2550 (e) The party moving the court for an order pursuant to this Code section shall give not
2551 less than one day's notice of the hearing to the opposite party. A copy of the motion shall
2552 be sent to the opposing party or his or her counsel by any means which will reasonably
2553 ensure timely delivery, including transmission by facsimile or by digital or electronic
2554 means. A copy of the notice shall be attached to the motion and filed with the clerk of
2555 court.

2556 (f) If the court is satisfied that the examination of the witness is authorized by law and
2557 necessary, the court shall enter an order setting a time period of not more than 30 days
2558 during which the deposition shall be taken.

2559 (g) On motion of either party, the court may designate a judge who shall be available to
2560 rule on any objections to the interrogation of the witness or before whom the deposition
2561 shall be taken. The judge so designated may be a judge of any court of this state who is
2562 otherwise qualified to preside over the trial of criminal proceedings in the court having
2563 jurisdiction over the offense charged.

2564 24-13-131.

2565 (a) The party at whose instance a deposition is to be taken shall give to every party
2566 reasonable written notice of the time and place for taking the deposition. The notice shall
2567 state the name and address of each person to be examined.

2568 (b) On motion of a party upon whom the notice is served, the court for cause shown may
2569 extend or shorten the time or change the place for taking the deposition.

2570 (c) The officer having custody of an accused shall be notified of the time and place set for
2571 the examination and shall, unless the accused waives in writing the right to be present,
2572 produce the accused at the examination and keep the accused in the presence of the witness
2573 during the examination unless, after being warned by the judge that disruptive conduct will
2574 cause the accused's removal from the place where the deposition is being taken, the accused
2575 persists in conduct which would justify exclusion from that place.

2576 (d) An accused not in custody shall have the right to be present at the examination; but
2577 failure of the accused to appear, absent good cause shown, after notice and tender of
2578 expenses, shall constitute a waiver of that right and of any objection to the taking and use
2579 of the deposition based upon that right.

2580 (e) Notwithstanding the provisions of subsections (c) and (d) of this Code section, if the
2581 witness is a child, the court may order that the deposition be taken in accordance with Code
2582 Section 17-8-55.

2583 24-13-132.

2584 (a) If an accused is financially unable to employ counsel, the court shall appoint counsel
2585 as provided in Chapter 12 of Title 17, unless the accused elects to proceed without counsel.

2586 (b) Whenever a deposition is taken at the instance of the state, the cost of any such
2587 deposition shall be paid by the state by the Prosecuting Attorneys' Council of the State of
2588 Georgia out of such funds as may be appropriated for the operations of the district
2589 attorneys.

2590 (c) Depositions taken at the instance of an accused shall be paid for by the accused;
2591 provided, however, that, whenever a deposition is taken at the instance of an accused who
2592 is eligible for the appointment of counsel as provided in Chapter 12 of Title 17, the court
2593 shall direct that the reasonable expenses for the taking of the deposition and of travel and

2594 subsistence of the accused and the accused's attorney for attendance at the examination, not
2595 to exceed the limits established pursuant to Article 2 of Chapter 7 of Title 45, be paid for
2596 out of the fine and forfeiture fund of the county where venue is laid.

2597 24-13-133.

2598 Except as provided in Code Section 24-13-137, a deposition shall be taken and filed in the
2599 manner provided in civil proceedings, provided that (1) in no event shall a deposition be
2600 taken of an accused party without his or her consent and (2) the scope of examination and
2601 cross-examination shall be such as would be allowed in the trial itself. On request or
2602 waiver by the accused, the court may direct that a deposition be taken on written
2603 interrogatories in the manner provided in civil proceedings. Such request shall constitute
2604 a waiver by the accused of any objection to the taking and use of the deposition based upon
2605 its being so taken. If a judge has been designated to rule on objections or to preside over
2606 the deposition, objections to interrogation of the witness shall be made to and ruled on by
2607 such judge in the same manner as at the trial of a criminal proceeding.

2608 24-13-134.

2609 The state shall make available to the accused, for the accused's examination and use at the
2610 taking of the deposition, any statement of the witness being deposed which is in the
2611 possession of the state and which the state would be required to make available to the
2612 accused if the witness were testifying at the trial.

2613 24-13-135.

2614 At the trial or upon any hearing, a part or all of a deposition, so far as otherwise admissible
2615 under the rules of evidence, may be used if the witness is unavailable. Any deposition may
2616 also be used by any party for the purpose of contradicting or impeaching the testimony of
2617 the deponent as a witness. If only a part of a deposition is offered in evidence by a party,
2618 an adverse party may require the offering of all of it which is relevant to the part offered,
2619 and any party may offer other parts. A witness is not unavailable if the exemption, refusal
2620 to testify, claim of lack of memory, inability, or absence of such witness is due to the
2621 procurement or wrongdoing of the party offering the deposition at the hearing or trial for
2622 the purpose of preventing the witness from attending or testifying.

2623 24-13-136.

2624 Objections to receiving in evidence a deposition or part thereof may be made as provided
2625 in civil proceedings.

2626 24-13-137.

2627 (a) Any party shall have the right to require that the deposition be recorded and preserved
2628 by the use of audio-visual equipment in addition to a stenographic record. The audio-visual
2629 recording shall be transmitted to the clerk of the court which ordered the deposition and
2630 shall be made available for viewing and copying only to the prosecuting attorney and
2631 accused's attorney prior to trial. An audio-visual recording made pursuant to this Code
2632 section shall not be available for inspection or copying by the public until such audio-visual
2633 recording has been admitted into evidence during a trial or hearing in the case in which
2634 such deposition is made.

2635 (b) An audio-visual recording made pursuant to this Code section may be admissible at a
2636 trial or hearing as an alternative to the stenographic record of the deposition.

2637 (c) A stenographic record of the deposition contemplated in this Code section shall be
2638 made pursuant to Code Section 9-11-28.

2639 24-13-138.

2640 Nothing in this article shall preclude the taking of a deposition, orally or upon written
2641 questions, or the use of a deposition by agreement of the parties with the consent of the
2642 court.

2643 24-13-139.

2644 It is the intent of the General Assembly that depositions shall be taken in criminal
2645 proceedings only in exceptional circumstances when it is in the interests of justice that the
2646 testimony of a prospective witness be taken and preserved for use at trial. If the court finds
2647 that any party or counsel for a party is using the procedures set forth in this article for the
2648 purpose of harassment or delay, such conduct may be punished as contempt of court.

2649 ARTICLE 7

2650 24-13-150.

2651 Superior courts may entertain proceedings for the perpetuation of testimony in all
2652 proceedings in which the fact to which the testimony relates cannot immediately be made
2653 the subject of investigation at law and in which, for any cause, the common-law proceeding
2654 authorized under this title is not as available, or as completely available, as a proceeding
2655 in equity.

2656 24-13-151.

2657 A petition for discovery merely or to perpetuate testimony shall not be sustained unless
2658 some reason is shown why the usual proceeding at law is inadequate.

2659 24-13-152.

2660 The possession of the property is immaterial; nor shall the proceeding be denied though all
2661 parties in interest cannot be ascertained or reached.

2662 24-13-153.

2663 Testimony taken in the proceedings contemplated under Code Section 24-13-150 shall be
2664 used only from the necessity of the case, but in such case may be used against all persons,
2665 whether parties to the proceeding or not.

2666 24-13-154.

2667 The complainant shall in all cases be taxed with the costs of proceedings to perpetuate
2668 testimony.

2669 CHAPTER 14

2670 ARTICLE 1

2671 24-14-1.

2672 The burden of proof generally lies upon the party who is asserting or affirming a fact and
2673 to the existence of whose case or defense the proof of such fact is essential. If a negation
2674 or negative affirmation is essential to a party's case or defense, the proof of such negation
2675 or negative affirmation shall lie on the party so affirming it.

2676 24-14-2.

2677 What amount of evidence will change the onus or burden of proof shall be a question to be
2678 decided in each case by the sound discretion of the court.

2679 24-14-3.

2680 Moral and reasonable certainty is all that can be expected in legal investigation. In all civil
2681 proceedings, a preponderance of evidence shall be considered sufficient to produce mental
2682 conviction. In criminal proceedings, a greater strength of mental conviction shall be held
2683 necessary to justify a verdict of guilty.

2684 24-14-4.

2685 In determining where the preponderance of evidence lies, the jury may consider all the
2686 facts and circumstances of the case, the witnesses' manner of testifying, their intelligence,
2687 their means and opportunity for knowing the facts to which they testified, the nature of the
2688 facts to which they testified, the probability or improbability of their testimony, their
2689 interest or want of interest, and their personal credibility so far as the same may
2690 legitimately appear from the trial. The jury may also consider the number of the witnesses,
2691 though the preponderance is not necessarily with the greater number.

2692 24-14-5.

2693 Whether dependent upon direct or circumstantial evidence, the true question in criminal
2694 cases is not whether it is possible that the conclusion at which the evidence points may be
2695 false, but whether there is sufficient evidence to satisfy the mind and conscience beyond
2696 a reasonable doubt.

2697 24-14-6.

2698 To warrant a conviction on circumstantial evidence, the proved facts shall not only be
2699 consistent with the hypothesis of guilt, but shall exclude every other reasonable hypothesis
2700 save that of the guilt of the accused.

2701 24-14-7.

2702 The existence of a fact testified to by one positive witness is to be believed, rather than that
2703 such fact did not exist because many other witnesses who had the same opportunity of
2704 observation swear that they did not see or know of its having existed. This rule shall not
2705 apply when two parties have equal facilities for seeing or hearing a thing and one swears
2706 that it occurred while the other swears that it did not.

2707 24-14-8.

2708 The testimony of a single witness is generally sufficient to establish a fact. However, in
2709 certain cases, including prosecutions for treason, prosecutions for perjury, and felony cases
2710 where the only witness is an accomplice, the testimony of a single witness shall not be
2711 sufficient. Nevertheless, corroborating circumstances may dispense with the necessity for
2712 the testimony of a second witness, except in prosecutions for treason.

2713 24-14-9.

2714 In arriving at a verdict, the jury, from facts proved, and sometimes from the absence of
2715 counter evidence, may infer the existence of other facts reasonably and logically
2716 consequent on those proved.

2717 ARTICLE 2

2718 24-14-20.

2719 Presumptions are either of law or of fact. Presumptions of law are conclusions and
2720 inferences which the law draws from given facts. Presumptions of fact shall be exclusively
2721 questions for the jury, to be decided by the ordinary test of human experience.

2722 24-14-21.

2723 Certain presumptions of law, such as the presumption of innocence, in some cases the
2724 presumption of guilt, the presumption of continuance of life for seven years, the
2725 presumption of a mental state once proved to exist, and all similar presumptions, may be
2726 rebutted by proof.

2727 24-14-22.

2728 If a party has evidence in such party's power and within such party's reach by which he or
2729 she may repel a claim or charge against him or her but omits to produce it or if such party
2730 has more certain and satisfactory evidence in his or her power but relies on that which is
2731 of a weaker and inferior nature, a presumption arises that the charge or claim against such
2732 party is well founded; but this presumption may be rebutted.

2733 24-14-23.

2734 In the ordinary course of business, when good faith requires an answer, it is the duty of the
2735 party receiving a letter from another to answer within a reasonable time. Otherwise, the
2736 party shall be presumed to admit the propriety of the acts mentioned in the letter of the
2737 party's correspondent and to adopt them.

2738 24-14-24.

2739 In any proceeding to establish a right, title, or interest in or to real property that is a part of
2740 a railroad right of way, including a right of ingress or egress, where such proceeding is
2741 based upon occupancy of the railroad right of way by a person or entity other than the
2742 railroad corporation or railroad company, there shall be a presumption that any such

2743 occupancy of the railroad right of way is with the permission of the railroad corporation
2744 or railroad company. Such presumption may be rebutted.

2745 24-14-25.

2746 (a) As used in this Code section:

2747 (1) 'Bank' means any person engaged in the business of banking and includes, in addition
2748 to a commercial bank, a savings and loan association, savings bank, or credit union.

2749 (2) 'Check' means a draft, other than a documentary draft, payable on demand and drawn
2750 on a bank, even though it is described by another term, such as 'share draft' or 'negotiable
2751 order of withdrawal.'

2752 (b) In any dispute concerning payment by means of a check, a duplicate of the check
2753 produced in accordance with Code Section 24-10-1003, together with the original bank
2754 statement that reflects payment of the check by the bank on which it was drawn or a
2755 duplicate thereof produced in the same manner, shall create a presumption that the check
2756 has been paid.

2757 24-14-26.

2758 (a) Conclusive presumptions of law are termed estoppels; averments to the contrary of
2759 such presumptions shall not be allowed. Estoppels are not generally favored.

2760 (b) Estoppels include presumptions in favor of:

2761 (1) A record or judgment unreversed;

2762 (2) The proper conduct of courts and judicial officers acting within their legitimate
2763 spheres;

2764 (3) The proper conduct of other officers of the law after the lapse of time has rendered
2765 it dangerous to open the investigation of their acts in regard to mere formalities of the
2766 law;

2767 (4) Ancient deeds and other instruments more than 30 years old, when they come from
2768 proper custody and possession has been held in accordance with them;

2769 (5) Recitals in deeds, except payment of purchase money, as against a grantor, sui juris,
2770 acting in his or her own right, and his or her privies in estate, in blood, and in law;

2771 (6) A landlord's title as against his or her tenant in possession;

2772 (7) Solemn admissions made in judicio; or

2773 (8) Admissions upon which other parties have acted, either to their own injury or to the
2774 benefit of the persons making the admissions.

2775 Estoppels also include all similar cases where it would be more unjust and productive of
2776 evil to hear the truth than to forbear investigation.

2777 24-14-27.

2778 (a) Where an estoppel relates to the title to real estate, the party claiming to have been
2779 influenced by the other party's acts or declarations shall not only have been ignorant of the
2780 true title, but also ignorant of any convenient means of acquiring such knowledge.

2781 (b) Where both parties have equal knowledge or equal means of obtaining the truth, there
2782 shall be no estoppel.

2783 24-14-28.

2784 Trustees and other representatives with custody of papers have ample opportunities to
2785 discover defects in the title of property in their care and shall be estopped from setting up
2786 title adverse to their trust.

2787 24-14-29.

2788 In order for an equitable estoppel to arise, there shall generally be some intended deception
2789 in the conduct or declarations of the party to be estopped, or such gross negligence as to
2790 amount to constructive fraud, by which another has been misled to his or her injury.

2791 ARTICLE 3

2792 24-14-40.

2793 (a) Concordance of name alone is some evidence of identity. Residence, vocation,
2794 ownership of property, and other like facts may be proved. Reasonable certainty shall be
2795 all that is be required.

2796 (b) In civil proceedings, parties shall generally be relieved from the onus of proving
2797 identity, as it is a fact generally more easily disproved than established.

2798 24-14-41.

2799 An officer de facto may be proved to be such by his or her acts, without the production of
2800 his or her commission or appointment.

2801 24-14-42.

2802 A judgment shall be admissible between any parties to show the fact of the rendition
2803 thereof; between parties and privies it is conclusive as to the matter directly in issue, until
2804 reversed or set aside.

2805 24-14-43.

2806 Stern's United States calendar and Stafford's office calendar shall be admissible in proof
2807 of dates for the space of time covered by them respectively without further proof.

2808 24-14-44.

2809 In all civil proceedings where the life expectancy of a person shall be an issue, the
2810 American Experience Mortality Tables shall be admissible as evidence of the life
2811 expectancy of such person.

2812 24-14-45.

2813 (a) In addition to any other lawful methods of computing the value of the life of a decedent
2814 in wrongful death cases or of determining the present value of future due earnings or
2815 amounts in proceedings involving permanent personal injuries, there shall be admissible
2816 in evidence, as competent evidence in such proceedings, either or both of the following
2817 mortality tables:

2818 (1) The Commissioners 1958 Standard Ordinary Mortality Table; or

2819 (2) Annuity Mortality Table for 1949, Ultimate.

2820 (b) In addition to the provisions set out in subsection (a) of this Code section, the jury or
2821 court shall be authorized in cases of wrongful death or permanent personal injuries to use
2822 any table determined by the jury or court, whichever is the trier of fact, to be accurate in
2823 showing the value of annuities on single lives according to the mortality tables listed in
2824 subsection (a) of this Code section.

2825 (c) The admissible evidence provided for in subsections (a) and (b) of this Code section
2826 shall not be the exclusive method which the jury or court is required to use in such
2827 proceedings but shall be supplementary to other lawful and allowable evidence and
2828 methods for such purpose.

2829 24-14-46.

2830 All inspection certificates issued by the United States Department of Agriculture over the
2831 signature of any inspector thereof which are admissible in courts of the United States as
2832 prima-facie evidence of the truth of the statements therein contained shall be admissible
2833 in all courts of the State of Georgia as prima-facie evidence of the truth of the statements
2834 therein contained.

2835 24-14-47.

2836 (a) A written finding of presumed death made by officers or employees of the United
2837 States authorized to make such findings pursuant to any law of the United States or a duly

2838 certified copy of such finding shall be received in any court, office, or other place in this
2839 state as evidence of the death of the person therein found to be dead and the date,
2840 circumstances, and place of his or her disappearance.

2841 (b) An official written report, record, or duly certified copy thereof that a person is
2842 missing, missing in action, interned in a neutral country, beleaguered, besieged, or captured
2843 by an enemy, dead or alive, made by an officer or employee of the United States authorized
2844 by any law of the United States to make the same shall be received in any court, office, or
2845 other place in this state as evidence that such person is missing, missing in action, interned
2846 in a neutral country, beleaguered, besieged, or captured by an enemy, dead or alive, as the
2847 case may be.

2848 (c) For the purposes of subsections (a) and (b) of this Code section, any finding, report,
2849 record, or duly certified copy thereof purporting to have been signed by an officer or
2850 employee of the United States as is described in this Code section shall prima facie be
2851 deemed to have been signed and issued by such an officer or employee pursuant to law, and
2852 the person signing same shall prima facie be deemed to have acted within the scope of his
2853 or her authority."

2854 **SECTION 2.**

2855 Code Section 4-11-17 of the Official Code of Georgia Annotated, relating to filing a report
2856 regarding animal cruelty, is amended by revising subsection (a) as follows:

2857 "(a) Notwithstanding Code Section ~~24-9-29~~ 24-12-31 or any other provision of law to the
2858 contrary, any licensed veterinarian or veterinary technician having reasonable cause to
2859 believe that an animal has been subjected to animal cruelty in violation of Code Section
2860 16-12-4 or an act prohibited under Code Section 16-12-37 may make or cause to be made
2861 a report of such violation to the Commissioner, his or her designee, an animal control
2862 officer, a law enforcement agency, or a prosecuting attorney and may appear and testify in
2863 any judicial or administrative proceeding concerning the care of an animal."

2864 **SECTION 3.**

2865 Article 1 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to
2866 provisions applicable to the Department of Banking and Finance and financial institutions
2867 generally, is amended by revising Code Section 7-1-63, relating to retention of records, as
2868 follows:

2869 "7-1-63.

2870 (a) The department shall issue regulations classifying records kept by financial institutions
2871 and prescribing the period, if any, for which records of each class shall be retained and the
2872 form in which such records shall be maintained. Such periods may be permanent or for a

lesser term of years. In issuing such regulations, consideration shall be given to the objectives of this chapter and to:

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

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

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

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

SECTION 4.

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

"7-1-94.

~~(a) The~~ When the record of any examination or investigation of a financial institution by the department or the report by the examiner or employee of the department who conducted such examination or investigation ~~or a copy of either, when duly certified by the department, shall, in the absence of any applicable privilege, be is~~ admissible and constitute prima-facie in evidence of facts therein stated, but not of conclusions drawn by the examiner from such facts, in any action at law or equity in which one of the parties is the department or any officer or employee thereof, either in his official capacity or otherwise, or the financial institution subjected to examination or investigation under Title 24, the department, with the permission of the court, may edit out of the record or report any portion thereof which is not pertinent to the issue in question before the court or which would tend unnecessarily to affect adversely the public confidence in the financial institution.

2909 ~~(b) The department, with the permission of the court, may edit out of any report to be~~
 2910 ~~admitted as evidence pursuant to subsection (a) of this Code section any portion of the~~
 2911 ~~report which is not pertinent to the issue in question before the court or which would tend~~
 2912 ~~unnecessarily to affect adversely the public confidence in the financial institution."~~

2913 **SECTION 5.**

2914 Said article is further amended by revising Code Section 7-1-95, relating to the admissibility
 2915 of department's certificates and copies, as follows:

2916 "7-1-95.

2917 ~~When duly certified by the department, a copy of any book, paper, or document on file with~~
 2918 ~~it or a certificate under its seal shall be prima-facie evidence of the facts therein stated in~~
 2919 ~~any court of law or equity or in any investigation or proceeding authorized by law or for~~
 2920 ~~any other purpose and shall be admissible without any additional authentication, but in any~~
 2921 ~~proceeding the court or public body having jurisdiction may, on cause shown, require~~
 2922 ~~production of the original~~ Reserved."

2923 **SECTION 6.**

2924 Article 1 of Chapter 3 of Title 8 of the Official Code of Georgia Annotated, relating to
 2925 housing authorities, is amended by revising Code Section 8-3-6, relating to resolution as
 2926 conclusive evidence of authority's establishment and authority, as follows:

2927 "8-3-6.

2928 In any action or proceeding involving the validity or enforcement of, or otherwise relating
 2929 to, any contract of an authority, the authority shall be conclusively deemed to have become
 2930 established and authorized to transact business and exercise its powers under this article
 2931 upon proof of the adoption of a resolution by the governing body declaring the need for the
 2932 authority. Such resolution shall be deemed sufficient if it declares that there is need for an
 2933 authority and finds in substantially such terms as appear in subsection (a) of Code Section
 2934 8-3-5, no further detail being necessary, that either or both of the conditions enumerated
 2935 in that subsection exist in the city or county, as the case may be. ~~A copy of such resolution~~
 2936 ~~duly certified by the clerk shall be admissible in evidence in any action or proceeding."~~

2937 **SECTION 7.**

2938 Said article is further amended by revising Code Section 8-3-104, relating to resolution as
 2939 conclusive evidence of an authority's establishment, as follows:

2940 "8-3-104.

2941 In any suit, action, or proceeding involving the validity or enforcement of or relating to any
 2942 contract of the regional housing authority, the regional housing authority shall be

2943 conclusively deemed to have become created as a public body corporate and politic and to
 2944 have become established and authorized to transact business and exercise its powers under
 2945 this part upon proof of the adoption of a resolution by the governing body of each of the
 2946 counties creating the regional housing authority declaring the need for the regional housing
 2947 authority. Each such resolution shall be deemed sufficient if it declares that there is need
 2948 for the regional housing authority and finds in substantially such terms as appear in
 2949 paragraphs (1) and (2) of subsection (a) of Code Section 8-3-102, no further detail being
 2950 necessary, that the conditions enumerated in those paragraphs exist. ~~A copy of such~~
 2951 ~~resolution of the governing body of a county duly certified by the clerk of such county shall~~
 2952 ~~be admissible in evidence in any suit, action, or proceeding."~~

2953 **SECTION 8.**

2954 Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by
 2955 revising Code Section 9-10-6, relating to juror's private knowledge, as follows:

2956 "9-10-6.

2957 A juror shall not act on his or her private knowledge respecting the facts, witnesses, or
 2958 parties ~~unless sworn and examined as a witness in the case."~~

2959 **SECTION 9.**

2960 Said title is further amended by revising Code Section 9-10-9, relating to jurors' affidavits
 2961 permitted to uphold but not impeach a verdict, as follows:

2962 "9-10-9.

2963 ~~The affidavits of jurors may be taken to sustain but not to impeach their verdict~~ Reserved."

2964 **SECTION 10.**

2965 Said title is further amended by revising Code Section 9-11-44, relating to official records,
 2966 as follows:

2967 "9-11-44.

2968 ~~(a) *Proof of lack of record.* A written statement, signed by an officer having the custody~~
 2969 ~~of an official record or by his deputy, that after diligent search no record or entry of a~~
 2970 ~~specified tenor is found to exist in the records of his office, accompanied by a certificate~~
 2971 ~~attesting to his custody of the official record relating to such matters, is admissible as~~
 2972 ~~evidence that the records of his office contain no such record or entry.~~

2973 ~~(b) *Other proof.* This Code section does not prevent the proof of official records or of~~
 2974 ~~entry or lack of entry therein by any method authorized by any applicable statutes or by the~~
 2975 ~~rules of evidence at common law~~ Reserved."

SECTION 11.

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

"10-1-157.

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

SECTION 12.

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

"10-1-188.

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

SECTION 13.

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

"10-1-208.

~~A copy of the analysis made by the state oil chemist of the Department of Agriculture of any antifreeze and certified by him shall be admitted as evidence in any court of this state upon trial of any issue involving the merits of antifreeze as defined and covered by this part~~
Reserved."

SECTION 14.

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

"10-1-444.

Upon compliance by the applicant with the requirements of this part, the Secretary of State shall cause a certificate of registration to be issued and delivered to the applicant. The certificate of registration shall be issued under the signature of the Secretary of State and

the seal of the state and it shall show the name and business address and, if a corporation, the state of incorporation, of the person claiming ownership of the trademark or service mark; the date claimed for the first use of the trademark or service mark anywhere and the date claimed for the first use of the trademark or service mark in this state; the class of goods or services and a description of the goods or services on which the trademark or service mark is used; a reproduction of the trademark or service mark; the registration date; and the term of the registration.

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

SECTION 15.

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

"10-4-15.

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

SECTION 16.

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

"10-6-64.

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

SECTION 17.

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

"10-14-27.

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

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

SECTION 18.

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

"14-9A-117.

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

SECTION 19.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising Code Section 15-11-79.1, relating to the use and disposition of evidence, as follows:

"15-11-79.1.

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

SECTION 20.

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

3078 "(2) Assist victims and witnesses of crimes through the complexities of the criminal
3079 justice system and ensure that victims of crime are apprised of the rights afforded them
3080 under Chapter 14 of Title 17, ~~relating to restitution to victims of crime~~; Chapter 17 of
3081 Title 17, the 'Crime Victims' Bill of Rights'; Chapter 18 of Title 17, ~~relating to providing~~
3082 ~~a written statement of information to victims of rape or forcible sodomy~~; and Code
3083 Section ~~24-6-616~~ ~~24-9-61.1~~, ~~relating to the presence of crime victims in the courtroom~~;"

3084 **SECTION 21.**

3085 Said title is further amended by revising paragraph (2) of subsection (b) of Code Section
3086 15-18-15, relating to chief assistant district attorney, as follows:

3087 "(2) If the district attorney will be temporarily absent from the judicial circuit such that
3088 he or she is not available to perform the duties of his or her office, the district attorney
3089 may authorize, in writing, the chief assistant district attorney to exercise any of the
3090 powers, duties, and responsibilities of the district attorney during such absence, including
3091 but not limited to such powers and duties as the district attorney may have pursuant to
3092 this title, Code Section 16-11-64, and Code Section ~~24-9-28~~ 24-5-507 and the laws of this
3093 state relating to the validation of bonds."

3094 **SECTION 22.**

3095 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
3096 amended by revising subsection (e) of Code Section 16-5-27, relating to female genital
3097 mutilation, as follows:

3098 "(e) The statutory privileges provided by Chapter ~~9~~ 5 of Title 24 shall not apply to
3099 proceedings in which one of the parties to the privilege is charged with a crime against a
3100 female under 18 years of age, but such person shall be compellable to give evidence only
3101 on the specific act for which the ~~defendant~~ accused is charged."

3102 **SECTION 23.**

3103 Said title is further amended by revising Code Section 16-12-55, relating to certification of
3104 tax-exempt status of organization and evidentiary nature of certificate, is amended as
3105 follows:

3106 "16-12-55.

3107 The director shall upon the request of any prosecuting attorney or his or her designee
3108 certify the status of any organization as to that organization's exemption from payment of
3109 state income taxes as a nonprofit organization. The director shall also upon request issue
3110 a certificate indicating whether any particular organization holds a currently valid license
3111 to operate a bingo game. ~~Such certificates properly executed shall be admissible in~~

3112 ~~evidence in any prosecution and~~ Code Section 48-7-60, relative to the disclosure of income
3113 tax information, shall not apply to the furnishing of such certificate."

3114 **SECTION 24.**

3115 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
3116 amended by adding a new Code section to Article 2 of Chapter 4, relating to arrest by law
3117 enforcement officers generally, to read as follows:

3118 "17-4-30.

3119 In the event a hearing impaired person is arrested for any alleged violation of a criminal
3120 law of this state, the arresting officer shall comply with the provisions of Article 3 of
3121 Chapter 6 of Title 24."

3122 **SECTION 25.**

3123 Said title is further amended by revising paragraph (4) of subsection (b) of Code Section
3124 17-4-40, relating to persons who may issue warrants for arrest of offenders against penal
3125 laws, as follows:

3126 "(4) At the warrant application hearing, the rules ~~regarding admission~~ of evidence at a
3127 commitment hearing shall apply as set forth in paragraph (1) of subsection (d) of Code
3128 Section 24-1-2. The person seeking the warrant shall have the customary rights of
3129 presentation of evidence and cross-examination of witnesses. The person whose arrest
3130 is sought may cross-examine the person or persons applying for the warrant and any other
3131 witnesses testifying in support of the application at the hearing. The person whose arrest
3132 is sought may present evidence that probable cause does not exist for his or her arrest.
3133 The judge or other officer shall have the right to limit the presentation of evidence and
3134 the cross-examination of witnesses to the issue of probable cause."

3135 **SECTION 26.**

3136 Said title is further amended by revising Code Section 17-7-25, relating to the power of the
3137 court to compel attendance of witnesses, as follows:

3138 "17-7-25.

3139 A court of inquiry shall have the same power to compel the attendance of witnesses as in
3140 other criminal cases, as set forth in and subject to all of the provisions of Chapter ~~10~~ 13 of
3141 Title 24, at any location where the court shall conduct a hearing, provided that notice is
3142 given at least 24 hours prior to the hearing. A court of inquiry may order the arrest of
3143 witnesses if required to compel their attendance."

SECTION 27.

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

"17-7-28.

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

SECTION 28.

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

"(b) If the person pleads 'guilty,' the plea shall be immediately recorded on the minutes of the court by the clerk, together with the arraignment; and the court shall pronounce the judgment of the law upon the person in the same manner as if he or she had been convicted of the offense by the verdict of a jury. At any time before judgment is pronounced, the accused person may withdraw the plea of 'guilty' and plead 'not guilty.'; ~~and the former plea shall not be admissible as evidence against him at his trial.~~"

SECTION 29.

Said title is further amended by revising Code Section 17-9-20, relating to action by juror on private knowledge as to facts, witnesses, or parties, as follows:

"17-9-20.

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

SECTION 30.

Said title is further amended by revising Code Section 17-9-41, relating to the use of affidavits of jurors relating to verdict, as follows:

"17-9-41.

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

SECTION 31.

Said title is further amended by revising subparagraph (b)(3)(C) of Code Section 17-16-4, relating to disclosure required by prosecuting attorney and defendant, as follows:

"(C) The defendant shall, no later than five days before the trial commences, serve upon the prosecuting attorney a list of witnesses that the defendant intends to call as a witness in the presentence hearing. No later than the announcement of the verdict of the jury or if the defendant has waived a jury trial at the time the verdict is published by the court, the defendant shall produce for the opposing party any statement of such witnesses that is in the possession, custody, or control of the defendants or the defendant's counsel that relates to the subject matter of the testimony of such witnesses unless such statement is protected from disclosure by the privilege contained in paragraph (5), (6), (7), or (8) of subsection (a) of Code Section 24-9-21 24-5-501."

SECTION 32.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by revising subsection (d) of Code Section 20-2-940, relating to grounds and procedure for terminating or suspending contract of employment, as follows:

"(d) *Counsel; testimony.* Any teacher, principal, or other person against whom such charges listed in subsection (a) of this Code section have been brought shall be entitled to be represented by counsel and, upon request, shall be entitled to have subpoenas or other compulsory process issued for attendance of witnesses and the production of documents and other evidence. Such subpoenas and compulsory process shall be issued in the name of the local board and shall be signed by the ~~chairman~~ chairperson or ~~vice-chairman~~ vice chairperson of the local board. In all other respects, such subpoenas and other compulsory process shall be subject to ~~Part 1 of Article 2 of Chapter 10~~ 13 of Title 24, ~~as now or hereafter amended.~~"

SECTION 33.

Said title is further amended by revising Code Section 20-2-991, relating to liability insurance for performance of duties authorized and the admissibility of insurance in evidence, as follows:

"20-2-991.

In addition to other compensation paid to members of the State Board of Education, the State School Superintendent, and employees of the state board, and to members of boards of education, school superintendents, teachers, principals, officers, and employees of boards of control of cooperative educational service agencies, and other administrators and employees of county and other local public school systems, the state board, the boards of

3213 control of cooperative educational service agencies, and the several boards of education of
3214 counties, cities, and independent school systems, whenever created, are authorized, in their
3215 discretion, to purchase policies of liability insurance or contracts of indemnity insuring or
3216 indemnifying the members of the state board, State School Superintendent, employees of
3217 the state board, officers and employees of boards of control of cooperative educational
3218 service agencies, and the members of the boards of education, superintendents, teachers,
3219 principals, and other administrators and employees against damages arising out of the
3220 performance of their duties or in any way connected therewith, whether based upon
3221 negligence, violation of contract rights, or violation of civil, constitutional, common-law,
3222 or other statutory rights, whether state, federal, or both. Such boards may expend state,
3223 county, federal, and local funds, or any combination thereof, for such purposes. The
3224 amount of such insurance or indemnity shall be in the discretion of the respective board.
3225 No action shall be maintained against the person or company issuing such insurance or
3226 contracting for such indemnity until final judgment has first been entered against the
3227 individual covered by such policy or contract, ~~and the existence of such insurance or~~
3228 ~~indemnity shall not be disclosed or suggested in any action brought against such~~
3229 ~~individual."~~

3230 **SECTION 34.**

3231 Code Section 22-1-14 of the Official Code of Georgia Annotated, relating to valuation of
3232 condemned property, is amended as follows:

3233 "22-1-14.

3234 (a) When property is condemned under this title or any other title of this Code, the value
3235 of the condemned property may be determined through lay or expert testimony and its
3236 admissibility shall be addressed to the sound discretion of the court.

3237 (b) If any party to a condemnation proceeding seeks to introduce expert testimony as to
3238 the issue of just and adequate compensation, Code Section ~~24-9-67.1~~ 24-7-702 shall not
3239 apply."

3240 **SECTION 35.**

3241 Code Section 26-4-80 of the Official Code of Georgia Annotated, relating to dispensing and
3242 electronically transmitted drug orders, is amended by revising subsection (d) as follows:

3243 "(d) Information contained in the patient medication record or profile shall be considered
3244 confidential information as defined in this title. Confidential information may be released
3245 to the patient or the patient's authorized representative, the prescriber or other licensed
3246 health care practitioners then caring for the patient, another licensed pharmacist, the board
3247 or its representative, or any other person duly authorized to receive such information. In

3248 accordance with Code Section ~~24-9-40~~ 24-12-1, confidential information may be released
3249 to others only on the written release of the patient, court order, or subpoena."

3250 **SECTION 36.**

3251 Code Section 28-1-16 of the Official Code of Georgia Annotated, relating to issuance of
3252 subpoenas by the Superior Court of Fulton County on behalf of the Committees on Ethics
3253 of the Senate and House of Representatives, is amended by revising subsection (e) as
3254 follows:

3255 "(e) A subpoena issued under this Code section may be served at any place in ~~the~~ this state
3256 and in any manner authorized in Code Section ~~24-10-23~~ 24-13-24. Fees and mileage shall
3257 be paid and tendered as provided in Code Section ~~24-10-24~~ 24-13-25, notwithstanding the
3258 general exemption of the state from tender of fees and mileage, and shall be in the form of
3259 a check issued by the Legislative Fiscal Office upon the written request of the chairperson
3260 or acting chairperson."

3261 **SECTION 37.**

3262 Code Section 29-9-13.1 of the Official Code of Georgia Annotated, relating to authentication
3263 of documents, is amended as follows:

3264 "29-9-13.1.

3265 Whenever it is required that a document which is to be filed in the court be authenticated
3266 or exemplified, such requirement shall be met by complying with the provisions of Code
3267 Section ~~24-7-24~~ 24-9-922 and paragraphs (1) through (4) of Code Section 24-9-902 and
3268 such full faith and credit shall be given to the document as is provided in that Code
3269 section."

3270 **SECTION 38.**

3271 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising
3272 Code Section 31-5-5, relating to contents of official record as evidence and classification of
3273 privileged materials, as follows:

3274 "31-5-5.

3275 ~~(a) Any order, rule, regulation, or any other document, record, or entry contained in the~~
3276 ~~official record or minutes of the department or of any county board of health shall be~~
3277 ~~admissible in evidence in any proceeding before any court or other tribunal in this state~~
3278 ~~where otherwise admissible and not privileged or confidential under this Code section~~
3279 ~~when certified as true and correct by and duly authorized by the director at the county level~~
3280 ~~and the examiner at the state level. It shall be the duty of the director or examiner, who~~
3281 ~~shall be custodian of such records, to furnish and certify copies of the record or other~~

3282 ~~evidence upon payment of reasonable costs therefor. Nothing in this Code section shall be~~
 3283 ~~construed as applying to Code Section 12-5-175.~~

3284 (b) The department and county boards of health are authorized by regulation to classify
 3285 as confidential and privileged documents, reports and other information and data obtained
 3286 by them from persons, firms, corporations, municipalities, counties, and other public
 3287 authorities and political subdivisions, where such matters relate to secret processes,
 3288 formulas, and methods or where such matters were obtained or furnished on a confidential
 3289 basis. All matters so classified shall not be subject to public inspection or discovery and
 3290 shall not be subject to production or disclosure in any court of law or elsewhere until and
 3291 unless the judge of the court of competent jurisdiction, after in camera inspection,
 3292 determines that the public interest requires such production and disclosure or that such
 3293 production and disclosure may be necessary in the ~~interest~~ interests of justice."

3294 **SECTION 39.**

3295 Said title is further amended by revising Code Section 31-10-26, relating to certified copies
 3296 of vital records, issuance, evidentiary effect, and use for other purposes, as follows:
 3297 "31-10-26.

3298 (a) In accordance with Code Section 31-10-25 and the regulations adopted pursuant
 3299 thereto:

3300 (1) The state registrar or local custodian of vital records appointed by the state registrar
 3301 to issue certified copies upon receipt of a written application shall issue a certified copy
 3302 of a vital record in that registrar's or custodian's custody or abstract thereof to any
 3303 applicant having a direct and tangible interest in the vital record, except that certified
 3304 copies of certificates shall only be issued to:

- 3305 (A) The person whose record of birth is registered;
- 3306 (B) Either parent, guardian, or temporary guardian of the person whose record of birth
 3307 or death is registered;
- 3308 (C) The living legal spouse or next of kin or the legal representative or the person who
 3309 in good faith has applied and produced a record of such application to become the legal
 3310 representative of the person whose record of birth or death is registered;
- 3311 (D) The court of competent jurisdiction upon its order or subpoena; or
- 3312 (E) Any governmental agency, state or federal, provided that such certificate shall be
 3313 needed for official purposes.

3314 (2) Each certified copy issued shall show the date of registration and ~~copies~~ duplicates
 3315 issued from records marked 'delayed' or 'amended' shall be similarly marked and show
 3316 the effective date. The documentary evidence used to establish a delayed certificate of
 3317 birth shall be shown on all ~~copies~~ duplicates issued. All forms and procedures used in

3318 the issuance of certified copies of vital records in ~~the~~ this state shall be provided or
 3319 approved by the state registrar.

3320 (b) ~~A certified copy of a vital record or any part thereof, issued in accordance with~~
 3321 ~~subsection (a) of this Code section, shall be considered for all purposes the same as the~~
 3322 ~~original and shall be prima-facie evidence of the facts stated therein, provided that the~~
 3323 ~~evidentiary value of a certificate or record filed more than one year after the event, or a~~
 3324 ~~record which has been amended, shall be determined by the judicial or administrative body~~
 3325 ~~or official before whom the certificate is offered as evidence.~~

3326 (c) The federal agency responsible for national vital statistics may be furnished such
 3327 ~~copies~~ duplicates or data from the system of vital records as it may require for national
 3328 statistics, provided such federal agency shares in the cost of collecting, processing, and
 3329 transmitting such data and provided further that such data shall not be used for other than
 3330 statistical purposes by the federal agency unless so authorized by the state registrar.

3331 ~~(d)~~(c) The state registrar may, by agreement, transmit ~~copies~~ duplicates of records and
 3332 other reports required by this chapter to offices of vital records outside this state when such
 3333 records or other reports relate to residents of those jurisdictions or persons born in those
 3334 jurisdictions. The agreement shall require that the ~~copies~~ duplicates be used for statistical
 3335 and administrative purposes only and the agreement shall further provide for the retention
 3336 and disposition of such ~~copies~~ duplicates. Copies Duplicates received by the department
 3337 from offices of vital statistics in other states shall be handled in the same manner as
 3338 prescribed in this Code section.

3339 ~~(e)~~(d) No person shall prepare or issue any certificate which purports to be an original,
 3340 certified copy or ~~copy~~ duplicate of a vital record except as authorized in this chapter or
 3341 regulations adopted under this chapter.

3342 ~~(f)~~(e) No ~~copies~~ duplicates or parts thereof of a vital record shall be reproduced or
 3343 information ~~copies~~ copied for commercial or speculative purposes. This subsection shall
 3344 not apply to published results of research."

3345 **SECTION 40.**

3346 Said title is further amended by revising paragraph (3) of subsection (c) of Code Section
 3347 31-21-3, relating to death of person with infectious or communicable disease, as follows:

3348 "(3) That disclosure is made by a physician pursuant to Code Section ~~24-9-40~~ 24-12-1
 3349 or any other law authorizing a physician to disclose otherwise privileged information;"

SECTION 41.

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by revising Code Section 33-2-2, relating to seal of Commissioner and admissibility in evidence of sealed documents, as follows:

"33-2-2.

The Commissioner shall have an official seal of such design as he or she shall select with the approval of the Governor. ~~Every certificate and other document or paper executed by the Commissioner in the pursuance of any authority conferred upon him by law and sealed with the seal of his office and all copies or photographic copies of papers certified by him and authenticated by said seal shall in all cases be evidence 'in equal and like manner' as the original thereof and shall in all cases be primary evidence of the contents of the original and shall be admissible in any court in this state."~~

SECTION 42.

Said title is further amended by revising subsection (b) of Code Section 33-20A-37, relating to the effect of favorable determinations, as follows:

"(b) A determination by the independent review organization in favor of a managed care entity shall create a rebuttable presumption in any subsequent action that the managed care entity's prior determination was appropriate ~~and shall constitute a medical record for purposes of Code Section 24-7-8."~~

SECTION 43.

Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, is amended by revising subsection (a) of Code Section 34-9-60, relating to rule-making and subpoena powers, as follows:

"(a) The board may make rules, not inconsistent with this chapter, for carrying out this chapter. Processes and procedure under this chapter shall be as summary and simple as reasonably possible; provided, however, that, in any proceeding under this chapter where the parties are represented by counsel, the board may require, by rule or regulation, on forms provided by the board, the filing of statements of contentions and points of agreement. The board may promulgate policies, rules, and regulations concerning the electronic submission to and transmission from the board of documents and filings. The board, any member of the board, or any administrative law judge shall have the power for the purposes of this chapter to issue and enforce subpoenas, to administer or cause to have administered oaths, and to examine or cause to be examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute. Article 2 of Chapter ~~10~~ 13 of Title 24 shall govern the issuance and enforcement of subpoenas pursuant to this

3385 Code section, except that the board, any member of the board, or any administrative law
 3386 judge shall carry out the functions of the court and the executive director shall carry out the
 3387 functions of the clerk of the court. The board shall not, however, have the power to order
 3388 imprisonment as a means of enforcing a subpoena. The board shall have the power to issue
 3389 writs of fieri facias in order to collect fines imposed pursuant to this Code section and such
 3390 writs may be enforced in the same manner as a similar writ issued by a superior court."

3391 **SECTION 44.**

3392 Said title is further amended by revising paragraph (5) of subsection (e) of Code Section
 3393 34-9-102, relating to hearings before administrative law judges, as follows:

3394 "(5) Code Section ~~24-3-18~~ 24-8-827 shall not apply to workers' compensation claims
 3395 filed under this chapter."

3396 **SECTION 45.**

3397 Said title is further amended by revising paragraph (4) of subsection (b) of Code Section
 3398 34-9-108, relating to approval of attorney's fees by the board, as follows:

3399 "(4) Upon a determination that proceedings have been brought, prosecuted, or defended
 3400 in whole or in part without reasonable grounds, the administrative law judge or the board
 3401 may, in addition to reasonable attorney's fees, award to the adverse party in whole or in
 3402 part reasonable litigation expenses against the offending party. Reasonable litigation
 3403 expenses under this subsection are limited to witness fees and mileage pursuant to Code
 3404 Section ~~24-10-24~~ 24-13-25; reasonable expert witness fees subject to the fee schedule;
 3405 reasonable deposition transcript costs; and the cost of the hearing transcript."

3406 **SECTION 46.**

3407 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia
 3408 Bureau of Investigation, is amended by adding a new article to read as follows:

3409 **ARTICLE 6A**

3410 35-3-160.

3411 (a) As used in this article, the term:

3412 (1) 'Department' means the Department of Corrections.

3413 (2) 'Division' means the Division of Forensic Services of the Georgia Bureau of
 3414 Investigation.

3415 (3) 'State correctional facility' means a penal institution under the jurisdiction of the
 3416 department, including inmate work camps and inmate boot camps; provided, however,

3417 that such term shall not include a probation detention center, probation diversion center,
3418 or probation boot camp under the jurisdiction of the department.
3419 (b) Any person convicted of:
3420 (1) Rape in violation of Code Section 16-6-1;
3421 (2) Sodomy or aggravated sodomy in violation of Code Section 16-6-2;
3422 (3) Statutory rape in violation of Code Section 16-6-3;
3423 (4) Child molestation or aggravated child molestation in violation of Code Section
3424 16-6-4;
3425 (5) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
3426 (6) Sexual assault against persons in custody, sexual assault against a person detained
3427 or a patient in a hospital or other institution, or sexual assault by a practitioner of
3428 psychotherapy against a patient in violation of Code Section 16-6-5.1;
3429 (7) Bestiality in violation of Code Section 16-6-6;
3430 (8) Necrophilia in violation of Code Section 16-6-7; or
3431 (9) Incest in violation of Code Section 16-6-22
3432 shall have a sample of his or her blood, an oral swab, or a sample obtained from a
3433 noninvasive procedure taken for DNA (deoxyribonucleic acid) analysis to determine
3434 identification characteristics specific to the person. In addition, on and after July 1, 2000,
3435 any person convicted of a felony and incarcerated in a state correctional facility shall at the
3436 time of entering the prison system have a sample of his or her blood, an oral swab, or a
3437 sample obtained from a noninvasive procedure taken for DNA (deoxyribonucleic acid)
3438 analysis to determine identification characteristics specific to the person. The provisions
3439 and requirements of this Code section shall also apply to any person who has been
3440 convicted of a felony prior to July 1, 2000, and who currently is incarcerated in a state
3441 correctional facility in this state for such offense. The provisions and requirements of this
3442 Code section shall also apply to any person who has been convicted of a felony in this state
3443 on or after July 1, 2000, and who is incarcerated in a private correctional facility in this
3444 state for such offense pursuant to a contract with the department upon entering the facility,
3445 and for any person convicted of a felony prior to July 1, 2000, and who is incarcerated in
3446 a private correctional facility in this state pursuant to contract with the department. The
3447 analysis shall be performed by the division. The division shall be authorized to contract
3448 with individuals or organizations for services to perform such analysis. The identification
3449 characteristics of the profile resulting from the DNA analysis shall be stored and
3450 maintained by the bureau in a DNA data bank and shall be made available only as provided
3451 in Code Section 35-3-163.
3452 (c)(1) On and after July 1, 2007, any person who is placed on probation shall have a
3453 sample of his or her blood, an oral swab, or a sample obtained from a noninvasive

3454 procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification
3455 characteristics specific to the person if such person is convicted of a felony violation of:
3456 (A) Chapter 5 of Title 16;
3457 (B) Rape in violation of Code Section 16-6-1;
3458 (C) Sodomy or aggravated sodomy in violation of Code Section 16-6-2;
3459 (D) Statutory rape in violation of Code Section 16-6-3;
3460 (E) Child molestation or aggravated child molestation in violation of Code Section
3461 16-6-4;
3462 (F) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
3463 (G) Sexual assault against persons in custody, sexual assault against a person detained
3464 or a patient in a hospital or other institution, or sexual assault by a practitioner of
3465 psychotherapy against a patient in violation of Code Section 16-6-5.1;
3466 (H) Bestiality in violation of Code Section 16-6-6;
3467 (I) Necrophilia in violation of Code Section 16-6-7;
3468 (J) Incest in violation of Code Section 16-6-22;
3469 (K) Burglary in violation of Code Section 16-7-1;
3470 (L) Robbery in violation of Code Section 16-8-40;
3471 (M) Armed robbery in violation of Code Section 16-8-41;
3472 (N) Impersonating a peace officer or public officer or employee in violation of Code
3473 Section 16-10-23;
3474 (O) Obstruction or hindering any law enforcement officer in violation of Code Section
3475 16-10-24;
3476 (P) Article 4 of Chapter 11 of Title 16; or
3477 (Q) Chapter 13 of Title 16.
3478 (2) The analysis shall be performed by the division. The division shall be authorized to
3479 contract with individuals or organizations for services to perform such analysis. The
3480 identification characteristics of the profile resulting from the DNA analysis shall be
3481 stored and maintained by the bureau in a DNA data bank and shall be made available
3482 only as provided in Code Section 35-3-163. The department shall be responsible for
3483 collecting such sample.

3484 35-3-161.
3485 (a) Each sample required pursuant to Code Section 35-3-160 from persons who are to be
3486 incarcerated shall be withdrawn within the first 30 days of incarceration at the receiving
3487 unit or at such other place as is designated by the department. Each sample required
3488 pursuant to Code Section 35-3-160 from persons who are to be released from a state
3489 correctional facility or private correctional facility shall be withdrawn within the 12 months

3490 preceding such person's release at a place designated by the department. The required
3491 samples from persons who are not sentenced to a term of confinement shall be withdrawn
3492 as a condition of probation. The division shall publish in its quality manuals the
3493 procedures for the collection and transfer of samples to such division pursuant to Code
3494 Section 35-3-154. Personnel at a department facility shall implement the provisions of this
3495 Code section as part of the regular processing of offenders.

3496 (b) Samples collected by oral swab or by a noninvasive procedure may be collected by any
3497 individual who has been trained in the procedure. Only a correctional health nurse
3498 technician, physician, registered professional nurse, licensed practical nurse, graduate
3499 laboratory technician, or phlebotomist shall withdraw any sample of blood to be submitted
3500 for analysis. No civil liability shall attach to any person authorized to take a sample as
3501 provided in this article as a result of the act of taking a sample from any person submitting
3502 thereto, provided the sample was taken according to recognized medically accepted
3503 procedures. However, no person shall be relieved from liability for negligence in the
3504 withdrawing of any blood sample.

3505 (c) Chemically clean sterile disposable needles shall be used for the withdrawal of all
3506 samples of blood. The containers for blood samples, oral swabs, and the samples obtained
3507 by noninvasive procedures shall be sealed and labeled with the subject's name, social
3508 security number, date of birth, race, and gender plus the name of the person collecting the
3509 sample and the date and place of collection. The containers shall be secured to prevent
3510 tampering with the contents. The steps set forth in this subsection relating to the taking,
3511 handling, identification, and disposition of samples are procedural and not substantive.
3512 Substantial compliance therewith shall be deemed to be sufficient. The samples shall be
3513 transported to the division not more than 15 days following withdrawal and shall be
3514 analyzed and stored in the DNA data bank in accordance with Code Sections 35-3-162 and
3515 35-3-163.

3516 35-3-162.
3517 Whether or not the results of an analysis are to be included in the data bank, the bureau
3518 shall conduct the DNA analysis in accordance with procedures adopted by the bureau to
3519 determine identification characteristics specific to the individual whose sample is being
3520 analyzed. The director of the bureau or his or her designated representative shall complete
3521 and maintain on file a form indicating the name of the person whose sample is to be
3522 analyzed, the date and by whom the sample was received and examined, and a statement
3523 that the seal on the container containing the sample had not been broken or otherwise
3524 tampered with. The remainder of a sample submitted for analysis and inclusion in the data
3525 bank pursuant to Code Section 35-3-160 may be divided, if possible, labeled as provided

3526 for the original sample, and securely stored by the bureau in accordance with specific
3527 procedures of the bureau to ensure the integrity and confidentiality of the samples. All or
3528 part of the remainder of that sample may be used only to create a statistical data base
3529 provided no identifying information on the individual whose sample is being analyzed is
3530 included or for retesting by the bureau to validate or update the original analysis. A report
3531 of the results of a DNA analysis conducted by the bureau as authorized, including the
3532 identifying information, shall be made and maintained at the bureau. Except as specifically
3533 provided in this Code section and Code Section 35-3-163, the results of the analysis shall
3534 be securely stored and shall remain confidential.

3535 35-3-163.

3536 (a) It shall be the duty of the bureau to receive samples and to analyze, classify, and file
3537 the results of DNA identification characteristics of samples submitted pursuant to Code
3538 Section 35-3-160 and to make such information available as provided in this Code section.
3539 The results of an analysis and comparison of the identification of the characteristics from
3540 two or more biological samples shall be made available directly to federal, state, and local
3541 law enforcement officers upon a request made in furtherance of an official investigation
3542 of any criminal offense. A request may be made by personal contact, mail, or electronic
3543 means. The name of the requestor and the purpose for which the information is requested
3544 shall be maintained on file with the bureau.

3545 (b) Upon request from a prosecutor or law enforcement agency, the bureau may compare
3546 a DNA profile from an analysis of a sample from a suspect in a criminal investigation
3547 where the sample was obtained through a search warrant, consent of the suspect, court
3548 order, or other lawful means to DNA profiles lawfully collected and maintained by the
3549 bureau. The bureau shall not add a DNA profile of any such suspect to any DNA data bank
3550 except upon conviction as provided in this article.

3551 (c)(1) Upon his or her request, a copy of the request for search shall be furnished to any
3552 person identified and charged with an offense as the result of a search of information in
3553 the data bank. Only when a sample or DNA profile supplied by the requestor
3554 satisfactorily matches the requestor's profile in the data bank shall the existence of data
3555 in the data bank be confirmed or identifying information from the data bank be
3556 disseminated.

3557 (2) The name of the convicted offender whose profile is contained in the data bank may
3558 be related to any other data bases which are constructed for law enforcement purposes
3559 and may be disseminated only for law enforcement purposes.

3560 (3) Upon a showing by the accused in a criminal proceeding that access to the DNA data
3561 bank is material to the investigation, preparation, or presentation of a defense at trial or

3562 in a motion for a new trial, a superior court having proper jurisdiction over such criminal
3563 proceeding shall direct the bureau to compare a DNA profile which has been generated
3564 by the accused through an independent test against the data bank, provided that such
3565 DNA profile has been generated in accordance with standards for forensic DNA analysis
3566 adopted pursuant to 42 U.S.C. Section 14131.

3567 (d) The bureau shall develop procedures governing the methods of obtaining information
3568 from the data bank in accordance with this Code section and procedures for verification of
3569 the identity and authority of the requestor. The bureau shall specify the positions in that
3570 agency which require regular access to the data bank and samples submitted as a necessary
3571 function of the job.

3572 (e) The bureau may create a separate statistical data base comprised of DNA profiles of
3573 samples of persons whose identity is unknown. Nothing in this Code section or Code
3574 Section 35-3-164 shall prohibit the bureau from sharing or otherwise disseminating the
3575 information in the statistical data base with law enforcement or criminal justice agencies
3576 within or outside this state.

3577 (f) The bureau may charge a reasonable fee to search and provide a comparative analysis
3578 of DNA profiles in the data bank to any authorized law enforcement agency outside of this
3579 state.

3580 35-3-164.

3581 (a) Any person who, without authority, disseminates information contained in the data
3582 bank shall be guilty of a misdemeanor. Any person who disseminates, receives, or
3583 otherwise uses or attempts to so use information in the data bank, knowing that such
3584 dissemination, receipt, or use is for a purpose other than as authorized by law, shall be
3585 guilty of a misdemeanor of a high and aggravated nature.

3586 (b) Except for purposes of law enforcement or as authorized by this article, any person
3587 who, for purposes of having DNA analysis performed, obtains or attempts to obtain any
3588 sample submitted to the division for analysis shall be guilty of a felony.

3589 35-3-165.

3590 A person whose DNA profile has been included in the data bank pursuant to this article
3591 may request that it be expunged on the grounds that the conviction on which the authority
3592 for including his or her DNA profile was based has been reversed and the case dismissed.
3593 The bureau shall purge all records and identifiable information in the data bank pertaining
3594 to the person and destroy all samples from the person upon receipt of a written request that
3595 such data be expunged, pursuant to this Code section, and a certified copy of the court
3596 order reversing and dismissing the conviction.

SECTION 47.

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by revising paragraph (2) of Code Section 36-74-25, relating to powers of enforcement boards created on or after January 1, 2003, as follows:

"(2) Subpoena alleged violators and witnesses to its hearings, with the approval of the court with jurisdiction over a criminal violator of the county or municipal code or ordinance. Subpoenas may be served by the sheriff, marshal, or police department of the county or by the police department of the municipality or by any other individual authorized by Code Section ~~24-10-23~~ 24-13-24 to serve subpoenas;"

SECTION 48.

Said title is further amended by revising paragraph (2) of Code Section 36-74-45, relating to powers of enforcement boards created prior to January 1, 2003, as follows:

"(2) Subpoena alleged violators and witnesses to its hearings, with the approval of the court with jurisdiction over a criminal violator of the county or municipal code or ordinance. Subpoenas may be served by the sheriff, marshal, or police department of the county or by the police department of the municipality or by any other individual authorized by Code Section ~~24-10-23~~ 24-13-24 to serve subpoenas;"

SECTION 49.

Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by revising subsections (b) and (c) of Code Section 37-3-166, relating to treatment of clinical records, when release is permitted, and scope of privileged communications, as follows:

"(b) In connection with any hearing held under this chapter, any physician, including any psychiatrist, or any psychologist who is treating or who has treated the patient shall be authorized to give evidence as to any matter concerning the patient, including evidence as to communications otherwise privileged under Code Section ~~24-9-21, 24-9-40, 24-5-501, 24-12-1,~~ or 43-39-16.

(c) Any disclosure authorized by this Code section or any unauthorized disclosure of confidential or privileged patient information or communications shall not in any way abridge or destroy the confidential or privileged character thereof, except for the purpose for which such authorized disclosure is made. Any person making a disclosure authorized by this Code section shall not be liable to the patient or any other person, notwithstanding any contrary provision of Code Section ~~24-9-21, 24-9-40, 24-5-501, 24-12-1,~~ or 43-39-16."

SECTION 50.

Said title is further amended by revising subsections (b) and (c) of Code Section 37-4-125, relating to treatment of clinical records and scope of privileged communications, as follows:

"(b) In connection with any hearing held under this chapter, any physician, including any psychiatrist, or any psychologist who is treating or who has treated the client shall be authorized to give evidence as to any matter concerning the client, including evidence as to communications otherwise privileged under Code Section ~~24-9-21, 24-9-40, 24-5-501, 24-12-1~~, or 43-39-16.

(c) Any disclosure authorized by this Code section or any unauthorized disclosure of confidential or privileged client information or communications shall not in any way abridge or destroy the confidential or privileged character thereof, except for the purpose for which such authorized disclosure is made. Any person making a disclosure authorized by subsection (a) of this Code section shall not be liable to the client or any other person, notwithstanding any contrary provision of Code Section ~~24-9-21, 24-9-40, 24-5-501, 24-12-1~~, or 43-39-16."

SECTION 51.

Said title is further amended by revising subsections (b) and (c) of Code Section 37-7-166, relating to maintenance, confidentiality, and release of clinical records and disclosure of confidential or privileged patient information, as follows:

"(b) In connection with any hearing held under this chapter, any physician, including any psychiatrist, or any psychologist who is treating or who has treated the patient shall be authorized to give evidence as to any matter concerning the patient, including evidence as to communications otherwise privileged under Code Section ~~24-9-21, 24-9-40, 24-5-501, 24-12-1~~, or 43-39-16.

(c) Any disclosure authorized by this Code section or any unauthorized disclosure of confidential or privileged patient information or communications shall not in any way abridge or destroy the confidential or privileged character thereof, except for the purpose for which such authorized disclosure is made. Any person making a disclosure authorized by this Code section shall not be liable to the patient or any other person, notwithstanding any contrary provision of Code Section ~~24-9-21, 24-9-40, 24-5-501, 24-12-1~~, or 43-39-16."

SECTION 52.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising subsection (b) of Code Section 40-2-74, relating to special license plates for persons with disabilities, as follows:

3663 "(b) A hearing impaired person otherwise qualified under this subsection shall be eligible
3664 to have issued to him or her a specially designated disabled person's license plate in
3665 accordance with this Code section. As used in this Code section, 'hearing impaired person'
3666 shall have the same meaning as defined in Code Section ~~24-9-101~~ 24-6-651, except that
3667 the term 'hearing impaired person' shall not include any person who is not qualified for a
3668 driver's license pursuant to Code Section 40-5-35, ~~relating to reports by physicians and~~
3669 ~~vision specialists in connection with the issuance or revocation of drivers' licenses, as now~~
3670 ~~or hereafter amended~~. For purposes of this subsection, presentation of an identification
3671 card for persons with disabilities issued pursuant to Article 8 of Chapter 5 of this title shall
3672 constitute proof of hearing impairment."

3673 **SECTION 53.**

3674 Said title is further amended by revising paragraph (1) of subsection (d) of Code Section
3675 40-5-2, relating to keeping of records of applications for licenses and information on
3676 licensees, as follows:

3677 "(d)(1) The commissioner shall designate members of the department to be the official
3678 custodians of the records of the department. No disclosure or release of operating records
3679 or personal information shall be made without the signed written approval of a designated
3680 custodian; except that such approval shall not be required for any release or disclosure
3681 through the GeorgiaNet Division of the Georgia Technology Authority pursuant to the
3682 signed written consent of the driver, provided that any such signed written consent shall
3683 be retained for a period of not less than four years by the party requesting the
3684 information; and except that such approval shall not be required for any release or
3685 disclosure of information made electronically through the GeorgiaNet Division of the
3686 Georgia Technology Authority in accordance with a contract authorized by subparagraph
3687 (c)(1)(B) of this Code section. The custodians may certify copies or compilations,
3688 including extracts thereof, of the records of the department. ~~When so certified, such~~
3689 ~~records shall be admissible as evidence in any civil or criminal proceeding as proof of the~~
3690 ~~contents thereof.~~"

3691 **SECTION 54.**

3692 Said title is further amended by revising subsection (d) of Code Section 40-5-58, relating to
3693 habitual violators, as follows:

3694 "(d) Notwithstanding any contrary provisions of Code Section 17-7-95 or 24-4-410, for the
3695 purposes of this Code section, any plea of nolo contendere entered and accepted after
3696 January 1, 1976, shall be considered a conviction."

SECTION 55.

Said title is further amended by revising subsection (d) of Code Section 40-6-10, relating to insurance requirements for operation of motor vehicles generally, as follows:

"(d) Except for vehicles insured under a fleet policy as defined in Code Section 40-2-137 or under a plan of self-insurance approved by the Commissioner of Insurance, insurance coverage information from records of the department shall be prima-facie evidence of the facts stated therein and shall be admissible as evidence in accordance with Code Section ~~24-3-17~~ 24-9-924 for the purposes of this Code section."

SECTION 56.

Said title is further amended by revising paragraph (1) of subsection (d) of Code Section 40-6-11, relating to insurance requirements for operation of motorcycles, as follows:

"(d)(1) Insurance coverage information from records of the department shall be prima-facie evidence of the facts stated therein and shall be admissible as evidence in accordance with Code Section ~~24-3-17~~ 24-9-924 for the purposes of this Code section."

SECTION 57.

Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended by revising Code Section 42-6-4, relating to the effect of failure to meet time limit for trial after delivery of inmate pursuant to Code Section 24-10-60, as follows:

"42-6-4.

If an inmate is not brought to trial upon a pending indictment or accusation within two terms of court after delivery of the inmate to the sheriff or a deputy sheriff pursuant to subsection (a) of Code Section ~~24-10-60~~ 24-13-60, provided no continuance has been granted, all detainers based upon the pending indictments or accusations shall be stricken and dismissed from the records of the department."

SECTION 58.

Said title is further amended by revising subsection (a) of Code Section 42-6-5, relating to the temporary custody of inmate requesting disposition of pending indictment or accusation, as follows:

"(a) In response to the request of an inmate for final disposition of any pending indictment or accusation made pursuant to Code Section 42-6-3 or pursuant to an order of a court entered pursuant to subsection (a) of Code Section ~~24-10-60~~ 24-13-60, the department shall offer to deliver temporary custody of the inmate to the sheriff or a deputy sheriff of the county in which the indictment or accusation is pending against the inmate. The judge of the court in which the proceedings are pending is authorized to and shall issue an ex parte

3731 order directed to the department requiring the delivery of the inmate to the sheriff or a
3732 deputy sheriff of the county in which the trial is to be held."

3733 **SECTION 59**

3734 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
3735 is amended by revising paragraph (5) of subsection (b) of Code Section 43-3-24, relating to
3736 issuance of permits to practice accountancy, as follows:

3737 "(5) An individual qualifying for the practice privilege under paragraph (1) of this
3738 subsection may provide expert witness services in this state and shall be deemed to be in
3739 compliance with ~~paragraph (1) of subsection (c) of Code Section 24-9-67.1~~ 24-7-702 for
3740 purposes of such services."

3741 **SECTION 60.**

3742 Said title is further amended by revising Code Section 43-6-6, relating to The Georgia
3743 Auctioneers Commission seal and receipt of copies of records and papers as evidence, as
3744 follows:

3745 "43-6-6.

3746 The commission shall adopt a seal, which may be either an engraved or ink stamp seal,
3747 with the words 'State Auctioneers Commission, State of Georgia' and such other devices
3748 as the commission may desire included thereon, by which it shall authenticate the acts of
3749 the commission. ~~Copies of all records and papers in the office of the commission certified~~
3750 ~~by the signature of the commission chairman and the seal of the commission shall be~~
3751 ~~received in evidence in all cases equally and with like effect as the originals."~~

3752 **SECTION 61.**

3753 Said title is further amended by revising paragraph (11) of subsection (a) of Code Section
3754 43-9-12, relating to The Georgia Board of Chiropractic Examiners' refusal, suspension, or
3755 revocation of licenses, as follows:

3756 "(11)(A) Become unable to practice chiropractic with reasonable skill and safety to
3757 patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other
3758 type of material, or as a result of any mental or physical condition.

3759 (B) In enforcing this paragraph, the board may, upon reasonable grounds, require a
3760 licensee or applicant to submit to a mental or physical examination by licensed health
3761 care providers designated by the board. The results of such examination shall be
3762 admissible in any hearing before the board, notwithstanding any claim of privilege
3763 under a contrary rule of law or statute, including, but not limited to, Code Section
3764 ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of practicing

chiropractic in this state or who shall file an application for a license to practice chiropractic in this state shall be deemed to have given his or her consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board, upon the grounds that the same constitutes a privileged communication. If a licensee or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond his or her control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant who is prohibited from practicing chiropractic under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that he or she can resume or begin the practice of chiropractic with reasonable skill and safety to patients.

(C) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain any and all records relating to the mental or physical condition of a licensee or applicant, including psychiatric records; and such records shall be admissible in any hearing before the board, notwithstanding any privilege under a contrary rule of law or statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of practicing chiropractic in this state or who shall file an application to practice chiropractic in this state shall be deemed to have given his or her consent to the board's obtaining any such records and to have waived all objections to the admissibility of such records in any hearing before the board, upon the grounds that the same constitutes a privileged communication.

(D) If any licensee or applicant could, in the absence of this paragraph, invoke a privilege to prevent the disclosure of the results of the examination provided for in subparagraph (B) of this paragraph or the records relating to the mental or physical condition of such licensee or applicant obtained pursuant to subparagraph (C) of this paragraph, all such information shall be received by the board in camera and shall not be disclosed to the public, nor shall any part of the record containing such information be used against any licensee or applicant in any other type of proceeding."

SECTION 62.

Said title is further amended by revising Code Section 43-11-12, relating to public inspection of the Georgia Board of Dentistry's records, as follows:

"43-11-12.

It shall be the duty of the division director to keep at his or her office the minutes of the board, together with all the books and records of the board, which books and records shall, except as provided in subsection (k) of Code Section 43-1-2, be public records open to inspection by the public except on Sundays and legal holidays. ~~A copy of all or any part~~

3801 ~~of any record or book certified by the division director, with the seal of the board attached,~~
3802 ~~shall be primary evidence in any court, and it shall be the duty of the division director to~~
3803 ~~furnish to any person making application therefor a copy of any part or all of any record~~
3804 ~~or book of the board upon the applicant's paying a fee prescribed by the division director.~~
3805 ~~All of such copies shall be certified by the division director and be under the seal of the~~
3806 ~~board."~~

3807 **SECTION 63.**

3808 Said title is further amended by revising Code Section 43-18-8, relating to official records
3809 and affidavits of the State Board of Registration for Professional Geologists as evidence, as
3810 follows:

3811 "43-19-8.

3812 ~~All official records of the board, or affidavits by the division director as to the content of~~
3813 ~~such records, shall be prima-facie evidence of all matters required to be kept therein~~
3814 Reserved."

3815 **SECTION 64.**

3816 Said title is further amended by revising Code Section 43-23-3, relating to the seal of the
3817 Georgia Board of Landscape Architects and copies of records and papers as evidence, as
3818 follows:

3819 "43-23-3.

3820 (a) The board shall adopt a seal, which may be either an engraved or an ink stamped seal,
3821 with the words 'Board of Landscape Architects, State of Georgia' or such other device as
3822 the board may desire included thereon, by which it shall authenticate the acts of the board.
3823 ~~(b) Copies of all records and papers in the office of the board, certified by the signature~~
3824 ~~of the chairman of the board, shall be received in evidence in all cases equally and with like~~
3825 ~~effect as the originals."~~

3826 **SECTION 65.**

3827 Said title is further amended by revising Code Section 43-28-6, relating to service of process
3828 and documents on division director and records of the State Board of Occupational Therapy
3829 as prima-facie evidence, as follows:

3830 "43-28-6.

3831 (a) All legal process and all documents required by law to be served upon or filed with the
3832 board shall be served upon or filed with the division director at his or her office.

3833 ~~(b) All official records of the board or affidavits by the division director certifying the~~
3834 ~~content of such records shall be prima-facie evidence of all matters required to be kept~~
3835 ~~therein."~~

3836 **SECTION 66.**

3837 Said title is further amended by revising Code Section 43-29-4, relating to the State Board
3838 of Dispensing Opticians' records and seal, as follows:

3839 "43-29-4.

3840 (a) The board shall have an official seal and shall keep a record of its proceedings and a
3841 register of persons whose licenses have been revoked.

3842 (b) The records of the board shall be open to public inspection, and it shall keep on file all
3843 examination papers for a period of 90 days after each examination. ~~A transcript of an entry~~
3844 ~~in such records, certified by the division director under the seal of the board, shall be~~
3845 ~~evidence of the facts stated therein."~~

3846 **SECTION 67.**

3847 Said title is further amended by revising Code Section 43-33-9, relating to the State Board
3848 of Physical Therapy's records as prima-facie evidence, as follows:

3849 "43-33-9.

3850 The division director shall be secretary of the board and shall perform such other
3851 administrative duties as may be prescribed by the board. In a contested case, the division
3852 director on behalf of the board shall have the power to subpoena, throughout ~~the~~ this state,
3853 witnesses, designated documents, papers, books, accounts, letters, photographs, objects,
3854 or other tangible things. All legal process and all documents required by law to be served
3855 upon or filed with the board shall be served upon or filed with the division director at his
3856 or her office in Atlanta. ~~All official records of the board or affidavits by the division~~
3857 ~~director certifying the content of such records shall be prima-facie evidence of all matters~~
3858 ~~required to be kept therein."~~

3859 **SECTION 68.**

3860 Said title is further amended by revising paragraph (2) of subsection (a) of Code Section
3861 43-33-18, relating to refusal to grant or restore licenses, as follows:

3862 "(2) Displayed an inability or has become unable to practice as a physical therapist or as
3863 a physical therapist assistant with reasonable skill and safety to patients by reason of
3864 illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a
3865 result of any mental or physical condition:

(A) In enforcing this paragraph the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by an appropriate practitioner of the healing arts designated by the board. The expense of such mental or physical examination shall be borne by the licensee or applicant. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under a contrary rule of law or statute, including, but not limited to Code Section ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of practicing physical therapy in this state or who shall file an application for a license to practice physical therapy in this state shall be deemed to have given his or her consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board upon the grounds that the same constitutes a privileged communication. If a licensee or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond his or her control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant who is prohibited from practicing physical therapy under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that he or she can resume or begin the practice of physical therapy with reasonable skill and safety to patients;

(B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain any and all records relating to the mental or physical condition of a licensee or applicant, including psychiatric records; and such records shall be admissible in any hearing before the board, notwithstanding any privilege under a contrary rule of law or statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of practicing physical therapy in this state or who shall file an application to practice physical therapy in this state shall be deemed to have given his or her consent to the board's obtaining any such records and to have waived all objections to the admissibility of such records in any hearing before the board upon the grounds that the same constitute a privileged communication; and

(C) If any licensee or applicant could, in the absence of this paragraph, invoke a privilege to prevent the disclosure of the results of the examination provided for in subparagraph (A) of this paragraph or the records relating to the mental or physical condition of such licensee or applicant obtained pursuant to subparagraph (B) of this paragraph, all such information shall be received by the board in camera and shall not be disclosed to the public, nor shall any part of the record containing such information be used against any licensee or applicant in any other type of proceeding;"

SECTION 69.

Said title is further amended by revising paragraph (13) of subsection (a) of Code Section 43-34-37, relating to the Composite State Board of Medical Examiners' authority to refuse license or discipline physicians, as follows:

"(13) Become unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition:

(A) In enforcing this paragraph the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by physicians designated by the board. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under a contrary rule of law or statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of practicing medicine in this state or who shall file an application for a license to practice medicine in this state shall be deemed to have given his or her consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board, upon the grounds that the same constitutes a privileged communication. If a licensee or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond his or her control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant who is prohibited from practicing medicine under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that he or she can resume or begin the practice of medicine with reasonable skill and safety to patients;

(B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain any and all records relating to the mental or physical condition of a licensee or applicant, including psychiatric records; and such records shall be admissible in any hearing before the board, notwithstanding any privilege under a contrary rule of law or statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of practicing medicine in this state or who shall file an application to practice medicine in this state shall be deemed to have given his or her consent to the board's obtaining any such records and to have waived all objections to the admissibility of such records in any hearing before the board, upon the grounds that the same constitute a privileged communication; and

(C) If any licensee or applicant could, in the absence of this paragraph, invoke a privilege to prevent the disclosure of the results of the examination provided for in subparagraph (A) of this paragraph or the records relating to the mental or physical

3939 condition of such licensee or applicant obtained pursuant to subparagraph (B) of this
3940 paragraph, all such information shall be received by the board in camera and shall not
3941 be disclosed to the public, nor shall any part of the record containing such information
3942 be used against any licensee or applicant in any other type of proceeding."

3943 **SECTION 70.**

3944 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section
3945 43-34-246, relating to the authority of the Composite State Board of Medical Examiners in
3946 relation to cosmetic laser services, as follows:

3947 "(1) Displayed an inability or has become unable to practice as a cosmetic laser
3948 practitioner with reasonable skill and safety to consumers by reason of illness, use of
3949 alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any
3950 mental or physical condition:

3951 (A) In enforcing this paragraph the board may, upon reasonable grounds, require a
3952 licensee or applicant to submit to a mental or physical examination by an appropriate
3953 practitioner of the healing arts designated by the board. The expense of such mental or
3954 physical examination shall be borne by the licensee or applicant. The results of such
3955 examination shall be admissible in any hearing before the board, notwithstanding any
3956 claim of privilege under a contrary rule of law or statute, including, but not limited to,
3957 Code Section ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of
3958 practicing cosmetic laser services in this state or who shall file an application for a
3959 license to provide cosmetic laser services in this state shall be deemed to have given his
3960 or her consent to submit to such mental or physical examination and to have waived all
3961 objections to the admissibility of the results in any hearing before the board upon the
3962 grounds that the same constitutes a privileged communication. If a licensee or
3963 applicant fails to submit to such an examination when properly directed to do so by the
3964 board, unless such failure was due to circumstances beyond his or her control, the board
3965 may enter a final order upon proper notice, hearing, and proof of such refusal. Any
3966 licensee or applicant who is prohibited from practicing cosmetic laser services under
3967 this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate
3968 to the board that he or she can resume or begin the practice of cosmetic laser
3969 practitioner with reasonable skill and safety to consumers;

3970 (B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain
3971 any and all records relating to the mental or physical condition of a licensee or
3972 applicant, including psychiatric records; and such records shall be admissible in any
3973 hearing before the board, notwithstanding any privilege under a contrary rule of law or
3974 statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person

3975 who shall accept the privilege of practicing as a cosmetic laser practitioner in this state
 3976 or who shall file an application to practice cosmetic laser services in this state shall be
 3977 deemed to have given his or her consent to the board's obtaining any such records and
 3978 to have waived all objections to the admissibility of such records in any hearing before
 3979 the board upon the grounds that the same constitute a privileged communication; and
 3980 (C) If any licensee or applicant could, in the absence of this paragraph, invoke a
 3981 privilege to prevent the disclosure of the results of the examination provided for in
 3982 subparagraph (A) of this paragraph or the records relating to the mental or physical
 3983 condition of such licensee or applicant obtained pursuant to subparagraph (B) of this
 3984 paragraph, all such information shall be received by the board in camera and shall not
 3985 be disclosed to the public, nor shall any part of the record containing such information
 3986 be used against any licensee or applicant in any other type of proceeding;"

3987 **SECTION 71.**

3988 Said title is further amended by revising subsection (a) of Code Section 43-40-6, relating to
 3989 the seal and records of the Georgia Real Estate Commission, as follows:

3990 "(a) The commission shall adopt a seal, which may be either an engraved or ink stamp seal,
 3991 with the words 'State Real Estate Commission, State of Georgia,' and such other device as
 3992 the commission may desire included thereon, by which it shall authenticate the acts of the
 3993 commission. ~~Copies of all records and papers in the office of the commission, certified by~~
 3994 ~~the signature of the real estate commissioner or the commissioner's designee and the seal~~
 3995 ~~of the commission, shall be received in evidence in all cases equally and with like effect~~
 3996 ~~as the originals."~~

3997 **SECTION 72.**

3998 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
 3999 revising Code Section 44-2-5, relating to recording execution and deed after sheriff's sale and
 4000 evidence of execution where original is lost, as follows:

4001 "44-2-5.

4002 A purchaser at a sheriff's sale may have the execution under which the property was sold
 4003 recorded with his or her deed together with all the entries on the execution. ~~In the event~~
 4004 ~~of the loss or destruction of the original execution, a copy of the record shall be admitted~~
 4005 ~~in evidence."~~

SECTION 73.

Said title is further amended by revising Code Section 44-2-20, relating to recorded affidavits relating to land as notice of facts cited therein and the admissibility of such affidavits in evidence, as follows:

"44-2-20.

(a) Recorded affidavits shall be notice of the facts therein recited, whether taken at the time of a conveyance of land or not, where such affidavits show:

(1) The relationship of parties or other persons to conveyances of land;

(2) The relationship of any parties to any conveyance with other parties whose names are shown in the chain of title to lands;

(3) The age or ages of any person or persons connected with the chain of title;

(4) Whether the land embraced in any conveyance or any part of such land or right therein has been in the actual possession of any party or parties connected with the chain of title;

(5) The payment of debts of an unadministered estate;

(6) The fact or date of death of any person connected with such title;

(7) Where such affidavits relate to the identity of parties whose names may be shown differently in chains of title;

(8) Where such affidavits show the ownership or adverse possession of lands or that other persons have not owned such lands nor been in possession of same; or

(9) Where such affidavits state any other fact or circumstance affecting title to land or any right, title, interest in, or lien or encumbrance upon land.

Any such affidavits may be made by any person, whether connected with the chain of title or not.

~~(b) In any litigation over any of the lands referred to and described in any of the affidavits referred to in subsection (a) of this Code section in any court in this state or in any proceedings in any such court involving the title to such lands wherein the facts recited in such affidavits may be material, the affidavits or certified copies of the record thereof shall be admissible in evidence and there shall be a rebuttable presumption that the statements in said affidavits are true. The affidavits or certified copies thereof shall only be admissible as evidence in the event the parties making the affidavits are deceased, they are nonresidents of the state, their residences are unknown to the parties offering the affidavits, or they are too old, infirm, or sick to attend court~~ Reserved.

(c) Affidavits referred to in ~~subsections~~ subsection (a) ~~and (b)~~ of this Code section shall be filed by the clerk of the superior court of the county where the land is located and shall contain a caption referring to the current owner and to a deed or other recorded instrument in the chain of title of the affected land. The clerk of the superior court shall record such

4043 affidavits, shall enter on the deed or other recorded instrument so referred to the book and
4044 page number on which such affidavit may be recorded, and shall index same in the name
4045 of the purported owner as shown by such caption in both grantor and grantee indexes in
4046 deed records as conveyances of lands are recorded and indexed; and ~~he~~ the clerk shall
4047 receive the same compensation therefor as for recording deeds to lands."

4048 **SECTION 74.**

4049 Said title is further amended by revising Code Section 44-2-23, relating to when deed serves
4050 as evidence, as follows:

4051 "44-2-23.

4052 ~~A recorded deed shall be admitted in evidence in any court without further proof unless the~~
4053 ~~maker of the deed, one of his heirs, or the opposite party in the action files an affidavit that~~
4054 ~~the deed is a forgery to the best of his knowledge and belief. Upon the filing of the~~
4055 ~~affidavit, the genuineness of the alleged deed shall become an issue to be determined in the~~
4056 ~~action~~ Reserved."

4057 **SECTION 75.**

4058 Said title is further amended by revising Code Section 44-2-101, relating to referral of case
4059 to examiner, as follows:

4060 "44-2-101.

4061 Upon the filing of a petition as provided in this article, the clerk shall at once notify the
4062 judge who shall refer the action to one of the general examiners or to a special examiner.
4063 It shall then become the duty of the examiner to make up a preliminary report containing
4064 an abstract of the title to the land from public records and all other evidence of a
4065 trustworthy nature that can reasonably be obtained by ~~him~~ the examiner, which abstract
4066 shall contain:

- 4067 (1) Extracts from the records and other matters referred to therein which are complete
4068 enough to enable the court to decide the questions involved;
- 4069 (2) A statement of the facts relating to the possession of the lands; and
- 4070 (3) The names and addresses, so far as the examiner is able to ascertain, of all persons
4071 interested in the land as well as all adjoining owners showing their several apparent or
4072 possible interests and indicating upon whom and in what manner process should be
4073 served or notices given in accordance with this article.

4074 The preliminary report of the examiner shall be filed in the office of the clerk of the
4075 superior court on or before the return day of the court as stated in the process unless the
4076 time for filing the report is extended by the court. ~~The report shall be prima-facie evidence~~
4077 ~~of the contents thereof."~~

SECTION 76.

Said title is further amended by revising Code Section 44-4-3, relating to the duty of surveyors and processioners, as follows:

"44-4-3.

It shall be the duty of the county surveyor and the processioners to take all due precautions to arrive at the true lines and to trace out and plainly mark the same. The surveyor shall make out and certify a plat of the true lines and deliver a copy thereof to the applicant; and, in all future boundary disputes with any owner of adjoining lands who had due notice of the processioning, the certified plat and the lines so marked shall be prima facie correct; ~~and the certified plat shall be admissible in evidence without further proof."~~

SECTION 77.

Said title is further amended by revising Code Section 44-4-6, relating to general reputation as evidence, as follows:

"44-4-6.

~~General reputation in the neighborhood shall be evidence as to ancient landmarks of more than 30 years' standing.~~ Acquiescence for seven years by acts or declarations of adjoining landowners shall establish a dividing line."

SECTION 78.

Said title is further amended by revising Code Section 44-5-45, relating to when ancient deed admissible without proof of execution, as follows:

"44-5-45.

~~A deed more than 30 years old which, upon inspection, has the appearance of genuineness and which comes from the proper custody is admissible in evidence without proof of execution if possession of the property has been consistent with such deed~~ Reserved."

SECTION 79.

Said title is further amended by revising Code Section 44-13-11, relating to approval of application and transmittal of copy of exempted real property to other counties, as follows:

"44-13-11.

If, at the time and place appointed for passing upon the application, no objection is raised by any creditor of the applicant, the judge of the probate court shall endorse upon the schedule and upon the plat: 'Approved this the ____ day of _____, _____,' filling the blanks, and shall sign the schedule and plat officially and hand ~~them~~ such application to the clerk of the superior court of ~~his~~ the clerk's county; and, when land out of ~~his~~ the clerk's county is exempted, the judge shall transmit a certified copy of the exempted real property

4112 to the clerk of the superior court of each county in which exempted land is located. Each
4113 clerk of the superior court of a county in which exempted land is located shall record the
4114 exempted real property in a book to be kept for that purpose ~~in his office, which record or~~
4115 ~~a certified transcript thereof shall be competent evidence in all the courts of this state."~~

4116 **SECTION 80.**

4117 Said title is further amended by revising Code Section 44-14-38, relating to admission of
4118 mortgages into evidence, as follows:

4119 "44-14-38.

4120 ~~When duly executed and recorded, mortgages shall be admitted into evidence under the~~
4121 ~~same rules as recorded deeds~~ Reserved."

4122 **SECTION 81.**

4123 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
4124 is amended by revising Code Section 45-9-1, relating to general provisions and disclosure
4125 or insurance or indemnification in legal actions, as follows:

4126 "45-9-1.

4127 (a) In addition to any other compensation which may be paid to an officer, official, or
4128 employee of any agency, board, bureau, commission, department, or authority of the
4129 executive, judicial, or legislative branch of government of this state, each such agency,
4130 board, bureau, commission, department, or authority is authorized, in its discretion, to
4131 purchase policies of liability insurance or contracts of indemnity or to formulate sound
4132 programs of self-insurance utilizing funds available to such agency, board, bureau,
4133 commission, department, or authority, insuring or indemnifying such officers, officials, or
4134 employees to the extent that they are not immune from liability against personal liability
4135 for damages arising out of the performance of their duties or in any way connected
4136 therewith. Such policies of liability insurance, contracts of indemnity, or programs of
4137 self-insurance may also provide for reimbursement to an officer, official, or employee of
4138 any agency, board, bureau, commission, department, or authority of ~~the~~ this state for
4139 reasonable legal fees and other expenses incurred in the successful defense of any criminal
4140 proceeding, including, but not limited to, any criminal cause of action, suit, investigation,
4141 subpoena, warrant, request for documentation or property, or threat of such action whether
4142 formal or informal where such action arises out of the performance of his or her official
4143 duties. In addition, in the case of an officer, official, or employee who is required to
4144 maintain a professional license, such reimbursement may also be provided for legal fees
4145 and other expenses so incurred in the successful defense of a charge arising out of the
4146 performance of his or her official duties in proceedings before a professional licensing

board, disciplinary board or commission, or other similar body. Legal fees and other expenses shall be subject to adjustment by and the approval of the Attorney General.

(b) Such agencies, boards, bureaus, commissions, departments, or authorities may expend federal and state or other available funds for such purposes. The amount of such insurance or indemnity shall also be in the discretion of such agency, board, bureau, commission, department, or authority.

(c) For the purpose of this article, the term 'agency' shall specifically include, but shall not be limited to, public retirement systems of state-wide application established by the laws of this state, but shall not include counties or municipalities; provided, however, that the employees of community service boards, county departments of health, and county departments of family and children services as well as the members of the boards of said departments shall be considered to be state employees or officials for the purpose of this article. In order to facilitate the administration of liability coverage or other insurance coverages provided the community service boards, county departments of health, and county departments of family and children services, the Department of Human Resources ~~must~~ shall designate a central office which will be responsible for obtaining, submitting, and collecting all underwriting information and insurance premiums requested and assessed by the Department of Administrative Services.

~~(d) The existence of such insurance or indemnification shall not be disclosed or suggested in any action brought against such individual."~~

SECTION 82.

Said title is further amended by revising Code Section 45-9-20, relating to authorization of purchase of insurance, as follows:

"45-9-20.

In addition to any other compensation which may be paid to members of the governing bodies of municipalities, counties, and other public bodies, and to supervisors, administrators, employees, or other elected or appointed public officers, each municipality, county, and other public body of this state is authorized, in its discretion, to purchase policies of liability insurance or contracts of indemnity insuring or indemnifying the members of such governing bodies and such supervisors, administrators, employees, or other elected or appointed officers against personal liability for damages arising out of the performance of their duties or in any way connected therewith, whether based upon negligence, violation of contract rights, or violation of civil, constitutional, common law, or other statutory rights, whether state, federal, or local. Such municipalities, counties, and other public bodies may expend state, federal, and local funds for such purposes. The amount of such insurance or indemnity shall also be in the discretion of the governing body

4183 of such municipality, county, or other public body. No action shall be maintained against
4184 the person or company issuing such insurance or contracting for such indemnity until final
4185 judgment has first been entered against the individual covered by such policy or contract;
4186 ~~and the existence of such insurance or indemnity shall not be disclosed or suggested in any~~
4187 ~~action brought against such individual."~~

4188 **SECTION 83.**

4189 Said title is further amended by revising Code Section 45-14-5, relating to the Commissioner
4190 of Insurance, Safety Fire Commissioner, Industrial Loan Commissioner, and the Comptroller
4191 General's seal and sealed copies treated as originals, as follows:

4192 "45-14-5.

4193 The Commissioner of Insurance, Safety Fire Commissioner, Industrial Loan
4194 Commissioner, and the Comptroller General shall have an official seal for each office of
4195 such design as he or she shall select with the approval of the Governor. ~~Every certificate~~
4196 ~~and other document or paper executed by the Commissioner of Insurance, Safety Fire~~
4197 ~~Commissioner, Industrial Loan Commissioner, or the Comptroller General in the pursuance~~
4198 ~~of any authority conferred upon that office by law and sealed with the seal of that office~~
4199 ~~and all copies or photographic copies of papers certified by him and authenticated by said~~
4200 ~~seal shall in all cases be evidence 'in equal and like manner' as the original thereof and in~~
4201 ~~all cases be primary evidence of the contents of the original and shall be admissible in any~~
4202 ~~court in this state."~~

4203 **SECTION 84.**

4204 Said title is further amended by revising Code Section 45-16-43, relating to receipt as
4205 evidence of records, findings, and reports of medical examiners' inquiries, as follows:

4206 "45-16-43.

4207 ~~Reports of medical examiners' inquiries performed as provided in this article and copies~~
4208 ~~of records, photographs, laboratory findings, and reports in the office of the director of the~~
4209 ~~division, when duly attested by said director, shall be received as evidence in any court or~~
4210 ~~other proceeding for any purpose for which the original could be received without any~~
4211 ~~proof of the official character of the person whose name is signed thereto~~ Reserved."

4212 **SECTION 85.**

4213 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
4214 transportation, is amended by revising Code Section 46-2-53, relating to reports, rate
4215 schedules, orders, rules, or regulations of commission as admissible evidence in court
4216 proceedings, as follows:

4217 "46-2-53.

4218 ~~The printed reports of the commission, published by its authority, shall be admissible as~~
 4219 ~~evidence in any court in this state without further proof. The schedules of rates made by~~
 4220 ~~the commission, and any order passed or rule or regulation prescribed by the commission,~~
 4221 ~~shall be admissible in evidence in any court in this state upon the certificate of the secretary~~
 4222 ~~of the commission~~ Reserved."

4223 **SECTION 86.**

4224 Said title is further amended by revising Code Section 46-3-175, relating to receipt of
 4225 certificates and certified copies in evidence, as follows:

4226 "46-3-175.

4227 ~~(a) All certificates issued by the Secretary of State in accordance with this article and all~~
 4228 ~~copies of documents filed in his office in accordance with this article, when certified by~~
 4229 ~~him, shall be taken and received in all courts, public offices, and official bodies as~~
 4230 ~~prima-facie evidence of the facts stated therein. A certificate by the Secretary of State~~
 4231 ~~under the seal of his office as to the existence or nonexistence of facts relating to electric~~
 4232 ~~membership corporations or foreign electric cooperatives shall be taken and received in all~~
 4233 ~~courts, public offices, and official bodies as prima-facie evidence of the existence or~~
 4234 ~~nonexistence of the facts stated therein.~~

4235 ~~(b)~~ The Secretary of State, at any time, upon the request of any person, shall make and
 4236 certify additional copies of any document filed with his or her office and of the certificate,
 4237 if any, issued by the Secretary of State in connection with the filing of the document, under
 4238 this article, upon payment to ~~him~~ the Secretary of State of the fee provided for in Code
 4239 Section 46-3-502."

4240 **SECTION 87.**

4241 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 4242 amended by revising Code Section 48-2-14, relating to the state revenue commissioner's
 4243 official seal, as follows:

4244 "48-2-14.

4245 The commissioner shall have an official seal of such device as he or she shall select,
 4246 subject to the approval of the Governor. ~~Any certificate or other legal document or paper~~
 4247 ~~executed by the commissioner in the exercise of any authority conferred upon him by law,~~
 4248 ~~which paper is sealed with the seal of his office, and all copies or photographic copies of~~
 4249 ~~papers certified by him and authenticated by the seal shall be evidence equally in all cases~~
 4250 ~~and, in like manner as the original of the document or paper, shall be primary evidence in~~
 4251 ~~all cases of the contents of the original, and shall be admissible in any court in this state."~~

SECTION 88.

Said title is further amended by revising subsection (d) of Code Section 48-5-138, relating to the cashbook to be kept by tax collectors and tax commissioners, as follows:

"(d) The tax collector or tax commissioner shall make and file an accounting as required by Code Section 48-5-154. The record book shall be preserved by the tax collector or tax commissioner in the tax collector's or tax commissioner's office. ~~The record book or a transcript of the record book, when properly authenticated, shall be admitted in evidence in courts of this state as evidence of the payment of taxes.~~ The commissioner shall furnish the tax collectors and tax commissioners the book required pursuant to this Code section at the state's expense."

SECTION 89.

Code Section 49-5-183.1 of the Official Code of Georgia Annotated, relating to notice to alleged child abuser of classification and procedure, is amended by revising subsection (i) as follows:

"(i) No child under the age of 14 shall be compelled to appear to testify at any hearing held pursuant to this Code section. If a child under the age of 14 testifies voluntarily, such testimony shall be given in compliance with procedures analogous to those contained in Code Section 17-8-55. Nothing in this article shall prohibit introducing a child's statement in a hearing held pursuant to this Code section if the statement meets the criteria of Code Section ~~24-3-16~~ 24-8-820."

SECTION 90.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by revising Code Section 50-5A-4, relating to bond to be recorded and filed and certified copy is admissible in evidence, as follows:

"50-5A-4.

The bond of the director, when duly executed and approved, shall be recorded in the Secretary of State's office and filed in the office of the Governor. ~~A copy of the bond, when certified by one of the Governor's secretaries under the seal of the office of the Governor, or a certified copy taken from the records of the Secretary of State's office shall be received in evidence in any court in lieu of the original.~~

SECTION 91.

Said title is further amended by revising Code Section 50-18-96, relating to copies of records as primary evidence, as follows:

4285 "50-18-96.
 4286 ~~Photostatic copies of records produced from microfilm and print-out copies of computer~~
 4287 ~~records shall be received in any court of this state as primary evidence of the recitals~~
 4288 ~~contained therein~~ Reserved."

4289 SECTION 92.

4290 Code Section 52-6-8 of the Official Code of Georgia Annotated, relating to keeping of
 4291 records by the Board of Pilotage Commissioners, is amended as follows:

4292 "52-6-8.
 4293 The commissioners shall preserve in a neatly bound book a record of all their acts and of
 4294 all the rules and regulations adopted by them for the direction and government of pilots.
 4295 The commissioners ~~They~~ shall designate one of their number as ~~chairman~~ chairperson and
 4296 cause a record thereof to be made. The commissioners ~~They~~ shall also preserve upon their
 4297 records a list of the names of all persons appointed pilots by them, as well as a list of the
 4298 names of those whose licenses have been suspended or revoked or who have been retired.
 4299 All persons interested shall have access to and be permitted to have ~~copies~~ duplicates of
 4300 ~~the~~ such records; ~~and copies thereof certified by the chairman or secretary shall be~~
 4301 ~~presumptive evidence of the facts therein stated.~~"

4302 SECTION 93.

4303 Title 53 of the Official Code of Georgia Annotated, relating to wills, trusts, and estates, is
 4304 amended by revising subsection (b) of Code Section 53-5-33, relating to requisites for
 4305 admission to ancillary probate, as follows:

4306 "(b) For purposes of ancillary probate of out-of-state wills, when the out-of-state will has
 4307 been admitted to probate or established in the domiciliary jurisdiction, the will may be
 4308 admitted to ancillary probate in solemn form upon production of a properly certified copy
 4309 of the will and a properly authenticated copy of the final proceedings in the jurisdiction in
 4310 which the will was probated or established, certified according to Code Section ~~24-7-24~~
 4311 24-9-922, and may be attacked or resisted on the same grounds as other judicial
 4312 proceedings from a state of the United States."

4313 SECTION 94.

4314 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section
 4315 53-5-35, relating to muniments of title to realty, as follows:

4316 "(1) Such a will is accompanied by properly authenticated copies of the record admitting
 4317 the will to probate in another state, certified according to Code Section ~~24-7-24~~ 24-9-922;
 4318 and"

SECTION 95.

Said title is further amended by revising Code Section 53-5-43, relating to evidence of authority, as follows:

"53-5-43.

A copy of letters, or like documentation authenticated in accordance with Code Section ~~24-7-24~~ 24-9-922, evidencing the qualification of the personal representative of the decedent who died domiciled outside this state, shall constitute prima-facie evidence of the authority of the personal representative to act in this state. Whenever a personal representative shall execute and deliver any deed of assent or conveyance with respect to real property located within this state, the personal representative shall attach to such deed as an exhibit the authenticated copy of the letters, and a certified copy of the will in the case of a testate decedent. The clerks of the superior courts of this state shall not be authorized to accept for filing and recording any deed given by such personal representative that does not conform to the foregoing requirements. Unless a third party has actual knowledge of the existence or pendency of ancillary probate or administration with respect to the decedent within this state, the third party who is dealing with the personal representative in reliance on the personal representative's letters and, in the case of a testate decedent, the out-of-state or foreign will, shall be fully protected."

SECTION 96.

Said title is further amended by revising Code Section 53-11-11, relating to authentication or exemplification of document, as follows:

"53-11-11.

Whenever it is required that a document to be filed in the probate court be authenticated or exemplified, such requirement shall be met by complying with the provisions of Code Section ~~24-7-24~~ 24-7-922 and such full faith and credit shall be given to the document as is provided in that Code section."

SECTION 97.

This Act shall become effective on January 1, 2011; provided, however, that Section 70 of this Act shall become effective when funds are specifically appropriated for 2007 HB 528.

SECTION 98.

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