

House Bill 29 (COMMITTEE SUBSTITUTE)

By: Representatives Jacobs of the 80th, Maddox of the 127th, Ramsey of the 72nd, Hatfield of the 177th, Lindsey of the 54th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated,
2 relating to commencement of action and service, so as to provide for electronic service of
3 pleadings subsequent to the original complaint; to provide for related matters; to provide for
4 an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 2 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to
8 commencement of action and service, is amended by revising subsection (b) of Code Section
9 9-11-5, relating to service and filing of pleadings subsequent to the original complaint and
10 other papers, as follows:

11 *"(b) Same — How made.* Whenever under this chapter service is required or permitted to
12 be made upon a party represented by an attorney, the service shall be made upon the
13 attorney unless service upon the party ~~himself~~ is ordered by the court. Service upon the
14 attorney or upon a party shall be made by delivering a copy to ~~him~~ the person to be served
15 or by mailing it to ~~him~~ the person to be served at ~~his~~ the person's last known address or, if
16 no address is known, by leaving it with the clerk of the court. As used in this Code section,
17 the term 'delivery of a copy' means handing it to the ~~attorney or to the party,~~ person to be
18 served or leaving it at ~~his~~ the person to be served's office with ~~his clerk or other~~ a person
19 in charge thereof or, if ~~the~~ such office is closed or the person to be served has no office,
20 leaving it at ~~his~~ the person to be served's dwelling house or usual place of abode with some
21 person of suitable age and discretion ~~then~~ residing therein. 'Delivery of a copy' also means
22 transmitting a copy via electronic mail in portable document format (PDF) to the person
23 to be served using all electronic mail addresses provided pursuant to subsection (f) of this
24 Code section and showing in the subject line of the electronic mail message the words
25 'STATUTORY ELECTRONIC SERVICE' in capital letters. Service by mail is complete
26 upon mailing. Proof of service may be made by certificate of an attorney or of his or her

27 employee, by written admission, by affidavit, or by other proof satisfactory to the court.
 28 Failure to make proof of service shall not affect the validity of service."

29 **SECTION 2.**

30 Said article is further amended by adding new subsections to Code Section 9-11-5, relating
 31 to commencement of action and service, to read as follows:

32 "(f)(1) *Electronic service of pleadings.* A party may consent to being served with
 33 pleadings electronically by:

34 (A) Filing a notice of consent to electronic service and including the party's electronic
 35 mail address or addresses in such pleading; or

36 (B) Including the party's electronic mail address or addresses in or below the signature
 37 block of the complaint or answer, as applicable to the party.

38 (2) A party may rescind his or her election to be served with pleadings electronically by
 39 filing and serving a notice of such rescission.

40 (3) If a party agrees to electronic service of pleadings, such party bears the responsibility
 41 of providing notice of any change in his or her electronic mail address or addresses.

42 (g) *Presumption of service.* If a party produces satisfactory evidence of service of a
 43 pleading, it shall be presumed that the person to be served received the pleading; provided,
 44 however, that such presumption may be rebutted."

45 **SECTION 3.**

46 Said article is further amended by revising subsection (e) of Code Section 9-11-6, relating
 47 to time, as follows:

48 "(e) *Additional time after service by mail or electronic mail.* Whenever a party has the
 49 right or is required to do some act or take some proceedings within a prescribed period
 50 after the service of a notice or other paper, other than process, upon him or her, and the
 51 notice or paper is served upon ~~him~~ the party by mail or electronic mail, three days shall be
 52 added to the prescribed period."

53 **SECTION 4.**

54 This Act shall become effective on January 1, 2010.

55 **SECTION 5.**

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