

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

A BILL TO BE ENTITLED  
AN ACT

1 To amend the Official Code of Georgia Annotated so as to substantially revise, supersede,  
2 and modernize provisions relating to evidence; to provide for 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 24  
CHAPTER 1  
ARTICLE 1

23 24-1-1.

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

28 24-1-2.

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

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

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

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

37 (2) Criminal proceedings before grand juries;

38 (3) Proceedings for extradition or rendition;

39 (4) Proceedings for revoking parole;

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

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

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

44 (8) Contempt proceedings in which the court, pursuant to subsection (a) of Code Section  
45 15-1-4, may act summarily.

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

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

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

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

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

58 ARTICLE 2

59 24-1-101.

60 Reserved.

61 24-1-102.

62 Reserved.

63 24-1-103.

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

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

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

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

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

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

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

87 24-1-104.

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

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

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

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

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

105 24-1-105.

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

109 24-1-106.

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

114 CHAPTER 2

115 ARTICLE 1

116 24-2-201.

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

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

- 120 (1) Generally known within the territorial jurisdiction of the court; or  
 121 (2) Capable of accurate and ready determination by resort to sources whose accuracy  
 122 cannot reasonably be questioned.  
 123 (c) A court may take judicial notice, whether or not requested by a party.  
 124 (d) A court shall take judicial notice if requested by a party and provided with the  
 125 necessary information.  
 126 (e) A party shall be entitled, upon timely request, to an opportunity to be heard as to the  
 127 propriety of taking judicial notice and the tenor of the matter noticed. In the absence of  
 128 prior notification, such request may be made after judicial notice has been taken.  
 129 (f) Judicial notice may be taken at any stage of the proceeding.  
 130 (g)(1) In a civil proceeding, the court shall instruct the jury to accept as conclusive any  
 131 fact judicially noticed.  
 132 (2) In a criminal proceeding, the court shall instruct the jury that it may, but is not  
 133 required to, accept as conclusive any fact judicially noticed.

134 ARTICLE 2

135 24-2-220.

136 The existence and territorial extent of states and their forms of government; all symbols of  
 137 nationality; the laws of nations; all laws and resolutions of the General Assembly and the  
 138 journals of each branch thereof as published by authority; the laws of the United States and  
 139 of the several states thereof as published by authority; the uniform rules of the courts; the  
 140 administrative rules and regulations filed with the Secretary of State pursuant to Code  
 141 Section 50-13-6; the general customs of merchants; the admiralty and maritime courts of  
 142 the world and their seals; the political makeup and history of this state and the federal  
 143 government as well as the local divisions of this state; the seals of the several departments  
 144 of the government of the United States and of the several states of the union; and all similar  
 145 matters of legislative fact shall be judicially recognized without the introduction of proof.  
 146 Judicial notice of adjudicative facts shall be governed by Code Section 24-2-201.

147 24-2-221.

148 When certified by a public officer, clerk, or keeper of county or municipal records in this  
 149 state in a manner as specified for county records in Code Section 24-9-920 or in a manner  
 150 as specified for municipal records in paragraph (1) or (2) of Code Section 24-9-902 and in  
 151 the absence of contrary evidence, judicial notice may be taken of a certified copy of any  
 152 ordinance or resolution included within a general codification required by paragraph (1)  
 153 of subsection (b) of Code Section 36-80-19 as representing an ordinance or resolution duly

154 approved by the governing authority and currently in force as presented. Any such  
155 certified copy shall be self-authenticating and shall be admissible as prima-facie proof of  
156 any such ordinance or resolution before any court or administrative body.

157 CHAPTER 3

158 24-3-1.

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

161 24-3-2.

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

166 24-3-3.

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

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

169 24-3-4.

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

172 24-3-5.

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

175 24-3-6.

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

179 24-3-7.

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

182 24-3-8.

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

185 24-3-9.

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

188 24-3-10.

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

192 CHAPTER 4

193 24-4-401.

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

197 24-4-402.

198 All relevant evidence shall be admissible, except as limited by constitutional requirements  
199 or as otherwise provided by law or by other rules, as prescribed pursuant to constitutional  
200 or statutory authority, applicable in the court in which the matter is pending. Evidence  
201 which is not relevant shall not be admissible.

202 24-4-403.

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

206 24-4-404.

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

209 (1) Evidence of a pertinent trait of character offered by an accused or by the prosecution  
210 to rebut the same; or if evidence of a trait of character of the alleged victim of the crime

211 is offered by an accused and admitted under paragraph (2) of this subsection, evidence  
 212 of the same trait of character of the accused offered by the prosecution;

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

218 (3) Evidence of the character of a witness, as provided in Code Sections 24-6-607,  
 219 24-6-608, and 24-6-609.

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

230 24-4-405.

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

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

240 24-4-406.

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

245 24-4-407.

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

253 24-4-408.

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

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

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

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

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

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

268 24-4-409.

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

271 24-4-410.

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

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

276 (2) A plea of nolo contendere;

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

279 (4) Any statement made in the course of plea discussions with an attorney for the  
280 prosecuting authority which does not result in a plea of guilty or which results in a plea  
281 of guilty later withdrawn, vacated, or set aside;  
282 provided, however, that the statements described in paragraphs (1) through (4) of this Code  
283 section shall be admissible in any proceeding wherein another statement made in the course  
284 of the same plea or plea discussions has been introduced and the statement ought in fairness  
285 be considered contemporaneously with it or in a criminal proceeding for perjury or false  
286 statement if the statement was made by the accused under oath, on the record, and in the  
287 presence of counsel or after the accused voluntarily waived his or her right to counsel.

288 24-4-411.

289 In all civil proceedings involving a claim for damages, evidence that a person was or was  
290 not insured against liability shall not be admissible except as provided in this Code section.  
291 This Code section shall not require the exclusion of evidence of insurance against liability  
292 in proceedings under Code Section 46-7-12 or when such evidence is offered for a relevant  
293 purpose, including, but not limited to, proof of agency, ownership, or control, and the court  
294 finds that the danger of unfair prejudice is substantially outweighed by the probative value  
295 of the evidence.

296 24-4-412.

297 (a) In any prosecution for rape in violation of Code Section 16-6-1; aggravated assault  
298 with the intent to rape in violation of Code Section 16-5-21; aggravated sodomy or sodomy  
299 in violation of Code Section 16-6-2; statutory rape in violation of Code Section 16-6-3;  
300 aggravated child molestation or child molestation in violation of Code Section 16-6-4;  
301 incest in violation of Code Section 16-6-22; sexual battery in violation of Code Section  
302 16-6-22.1; or aggravated sexual battery in violation of Code Section 16-6-22.2, evidence  
303 relating to the past sexual behavior of the complaining witness shall not be admissible,  
304 either as direct evidence or on cross-examination of the complaining witness or other  
305 witnesses, except as provided in this Code section. For the purposes of this Code section,  
306 evidence of past sexual behavior includes, but is not limited to, evidence of the  
307 complaining witness's marital history, mode of dress, general reputation for promiscuity,  
308 nonchastity, or sexual mores contrary to the community standards.

309 (b) In any prosecution for rape in violation of Code Section 16-6-1; aggravated assault  
310 with the intent to rape in violation of Code Section 16-5-21; aggravated sodomy or sodomy  
311 in violation of Code Section 16-6-2; statutory rape in violation of Code Section 16-6-3;  
312 aggravated child molestation or child molestation in violation of Code Section 16-6-4;  
313 incest in violation of Code Section 16-6-22; sexual battery in violation of Code Section

314 16-6-22.1; or aggravated sexual battery in violation of Code Section 16-6-22.2, evidence  
315 relating to the past sexual behavior of the complaining witness may be introduced if the  
316 court, following the procedure described in subsection (c) of this Code section, finds that  
317 the past sexual behavior directly involved the participation of the accused and finds that the  
318 evidence expected to be introduced supports an inference that the accused could have  
319 reasonably believed that the complaining witness consented to the conduct complained of  
320 in the prosecution.

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

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

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

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

335 24-4-413.

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

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

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

346 (d) For purposes of this Code section and Code Section 24-4-415, the term 'offense of  
347 sexual assault' means any conduct or attempt or conspiracy to engage in conduct that would  
348 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  
349 16-6-22.2.

350 24-4-414.

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

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

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

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

365 24-4-415.

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

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

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

378 24-4-416.

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

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

393 CHAPTER 5

394 24-5-501.

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

397 (1) Communications between husband and wife;

398 (2) Communications between attorney and client;

399 (3) Communications among grand jurors;

400 (4) Secrets of state;

401 (5) Communications between psychiatrist and patient;

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

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

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

412 (9) Communications between accountant and client as provided by Code Section  
 413 43-3-32.

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

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

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

418 24-5-502.

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

428 24-5-503.

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

431 (b) The privilege created by subsection (a) of this Code section or by corresponding  
432 privileges in paragraph (1) of Code Section 24-5-501 or subsection (a) of Code Section  
433 24-5-505 shall not apply in proceedings in which the husband or wife is charged with a  
434 crime against the person of a child under the age of 18, but such husband or wife shall be  
435 compellable to give evidence only on the specific act for which the accused is charged.

436 24-5-504.

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

442 24-5-505.

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

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

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

453 24-5-506.

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

456 (b) If an accused in a criminal proceeding wishes to testify and announces in open court  
457 his or her intention to do so, the accused may so testify. If an accused testifies, he or she  
458 shall be sworn as any other witness and, except as provided in Code Sections 24-6-608 and  
459 24-6-609, may be examined and cross-examined as any other witness. The failure of an  
460 accused to testify shall create no presumption against the accused, and no comment shall  
461 be made because of such failure.

462 24-5-507.

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

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

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

487 24-5-508.

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

494 (1) Is material and relevant;

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

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

498 CHAPTER 6

499 ARTICLE 1

500 24-6-601.

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

502 24-6-602.

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

508 24-6-603.

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

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

517 24-6-604.

518 Except as provided in Code Sections 24-6-656 and 24-6-657 or by the Rules for the Use  
519 of Interpreters for Non-English Speaking Persons promulgated in the Rules of the Supreme  
520 Court of Georgia, an interpreter shall be subject to the provisions of Code Sections  
521 24-7-702. The interpreter shall be required to take an oath or affirmation to make a true  
522 translation.

523 24-6-605.

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

526 24-6-606.

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

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

539 24-6-607.

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

542 24-6-608.

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

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

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

548 (b)(1) Specific instances of the conduct of a witness which are relevant only for the  
549 purpose of attacking or supporting the witness's credibility shall not be inquired into on

550 direct examination or proved by extrinsic evidence except as provided in Code Section  
 551 24-6-609 or except for conduct indicative of the witness's bias toward a party.

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

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

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

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

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

564 24-6-609.

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

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

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

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

580 (b) Time limit. Evidence of a conviction under this Code section shall not be admissible  
 581 if a period of more than ten years has elapsed since the date of the conviction or of the  
 582 release of the witness from the confinement imposed for such conviction, whichever is the  
 583 later date, unless the court determines, in the interests of justice, that the probative value  
 584 of the conviction supported by specific facts and circumstances substantially outweighs its  
 585 prejudicial effect. However, evidence of a conviction more than ten years old, as

586 calculated in this subsection, shall not be admissible unless the proponent gives to the  
 587 adverse party written notice at least ten days in advance of trial, unless the time is  
 588 shortened or lengthened or pretrial notice is excused by the judge upon good cause shown.

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

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

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

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

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

609 (f) *Certified copy of record of conviction.* A party impeaching a witness with a prior  
 610 conviction on cross-examination need not have or produce a certified copy of the record  
 611 of conviction but shall have a good faith basis to believe that the witness has a prior  
 612 conviction that qualifies under this Code section before asking the witness about such  
 613 conviction.

614 24-6-610.

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

618 24-6-611.

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

- 621 (1) Make the interrogation and presentation effective for the ascertainment of the truth;  
622 (2) Avoid needless consumption of time; and  
623 (3) Protect witnesses from harassment or undue embarrassment.

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

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

632 24-6-612.

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

637 (b) If a witness uses a writing to refresh his or her memory before testifying at trial and the  
638 court in its discretion determines it is necessary in the interests of justice, an adverse party  
639 shall be entitled to have the writing produced at the trial, to inspect it, to cross-examine the  
640 witness on such writing, and to introduce in evidence those portions of such writing which  
641 relate to the testimony of the witness. If the writing used is protected by the attorney-client  
642 privilege or as attorney work product under Code Section 9-11-26, use of the writing to  
643 refresh recollection prior to the trial shall not constitute a waiver of that privilege or  
644 protection. If it is claimed that the writing contains matters not related to the subject matter  
645 of the testimony, the court shall examine the writing in camera, excise any portions of such  
646 writing not so related, and order delivery of the remainder of such writing to the party  
647 entitled to such writing. Any portion withheld over objections shall be preserved and made  
648 available to the appellate court in the event of an appeal. If a writing is not produced or  
649 delivered pursuant to an order under this Code section, the court shall make any order  
650 justice requires; provided, however, that in criminal proceedings, when the prosecution  
651 elects not to comply, the order shall be one striking the testimony or, if the court in its  
652 discretion determines that the interests of justice so require, declaring a mistrial.

653 24-6-613.

654 (a) In examining a witness concerning a prior statement made by the witness, whether  
655 written or not, the statement need not be shown nor its contents disclosed to the witness at

656 that time; provided, however, upon request the same shall be shown or disclosed to  
657 opposing counsel.

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

664 (c) A prior consistent statement shall be admissible to rehabilitate a witness if the prior  
665 consistent statement logically rebuts an attack made on the witness's credibility. A general  
666 attack on a witness's credibility with evidence offered under Code Section 24-6-608 or  
667 24-6-609 shall not permit rehabilitation under this subsection. If a prior consistent  
668 statement is offered to rebut an express or implied charge against the witness of recent  
669 fabrication or improper influence or motive, the prior consistent statement shall have been  
670 made before the alleged recent fabrication or improper influence or motive arose.

671 24-6-614.

672 (a) The court may, on its own motion, call a court appointed expert, call a witness  
673 regarding the competency of any party, or call a child witness or, at the suggestion of a  
674 party, call such witnesses, and all parties shall be entitled to cross-examine such witnesses.  
675 In all other situations, the court may only call witnesses when there is an agreement of all  
676 of the parties for the court to call such witnesses and all parties shall be entitled to  
677 cross-examine such witnesses.

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

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

682 24-6-615.

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

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

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

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

692 24-6-616.

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

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

701 ARTICLE 2

702 24-6-620.

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

706 24-6-621.

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

708 24-6-622.

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

711 24-6-623.

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

714 ARTICLE 3

715 24-6-650.

716 It is the policy of the State of Georgia to secure the rights of hearing impaired persons who,  
717 because of impaired hearing, cannot readily understand or communicate in spoken  
718 language and who consequently cannot equally participate in or benefit from proceedings.

719 programs, and activities of the courts, legislative bodies, administrative agencies, licensing  
 720 commissions, departments, and boards of this state and its political subdivisions unless  
 721 qualified interpreters are available to assist such persons.

722 24-6-651.

723 As used in this article, the term:

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

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

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

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

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

740 24-6-652.

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

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

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

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

753 24-6-653.

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

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

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

772 24-6-654.

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

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

780 24-6-655.

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

787 24-6-656.

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

795 24-6-657.

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

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

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

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

813 24-6-658.

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

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

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

821

CHAPTER 7822 24-7-701.823 (a) If the witness is not testifying as an expert, the witness's testimony in the form of  
824 opinions or inferences shall be limited to those opinions or inferences which are:825 (1) Rationally based on the perception of the witness;826 (2) Helpful to a clear understanding of the witness's testimony or the determination of  
827 a fact in issue; and828 (3) Not based on scientific, technical, or other specialized knowledge within the scope  
829 of Code Section 24-7-702.830 (b) Direct testimony as to market value is in the nature of opinion evidence. A witness  
831 need not be an expert or dealer in an article or property to testify as to its value if he or she  
832 has had an opportunity to form a reasoned opinion.833 24-7-702.834 (a) Except as provided in Code Section 22-1-14 and in subsection (g) of this Code section,  
835 the provisions of this Code section shall apply in all civil proceedings. The opinion of a  
836 witness qualified as an expert under this Code section may be given on the facts as proved  
837 by other witnesses.838 (b) If scientific, technical, or other specialized knowledge will assist the trier of fact to  
839 understand the evidence or to determine a fact in issue, a witness qualified as an expert by  
840 knowledge, skill, experience, training, or education may testify thereto in the form of an  
841 opinion or otherwise, if:842 (1) The testimony is based upon sufficient facts or data;843 (2) The testimony is the product of reliable principles and methods; and844 (3) The witness has applied the principles and methods reliably to the facts of the case  
845 which have been or will be admitted into evidence before the trier of fact.846 (c) Notwithstanding the provisions of subsection (b) of this Code section and any other  
847 provision of law which might be construed to the contrary, in professional malpractice  
848 actions, the opinions of an expert, who is otherwise qualified as to the acceptable standard  
849 of conduct of the professional whose conduct is at issue, shall be admissible only if, at the  
850 time the act or omission is alleged to have occurred, such expert:851 (1) Was licensed by an appropriate regulatory agency to practice his or her profession  
852 in the state in which such expert was practicing or teaching in the profession at such time;  
853 and

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

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

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

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

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

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

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

874 (D) Notwithstanding any other provision of this Code section, an expert who is a  
875 physician and, as a result of having, during at least three of the last five years  
876 immediately preceding the time the act or omission is alleged to have occurred,  
877 supervised, taught, or instructed nurses, nurse practitioners, certified registered nurse  
878 anesthetists, nurse midwives, physician's assistants, physical therapists, occupational  
879 therapists, or medical support staff, has knowledge of the standard of care of that health  
880 care provider under the circumstances at issue shall be competent to testify as to the  
881 standard of that health care provider. However, a nurse, nurse practitioner, certified  
882 registered nurse anesthetist, nurse midwife, physician's assistant, physical therapist,  
883 occupational therapist, or medical support staff shall not be competent to testify as to  
884 the standard of care of a physician.

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

889 (e) An affiant shall meet the requirements of this Code section in order to be deemed  
890 qualified to testify as an expert by means of the affidavit required under Code Section  
891 9-11-9.1.

892 (f) It is the intent of the legislature that, in all civil proceedings, the courts of the State of  
893 Georgia not be viewed as open to expert evidence that would not be admissible in other  
894 states. Therefore, in interpreting and applying this Code section, the courts of this state  
895 may draw from the opinions of the United States Supreme Court in Daubert v. Merrell  
896 Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993); General Electric Co. v. Joiner, 522 U.S.  
897 136 (1997); Kumho Tire Co. Ltd. v. Carmichael, 526 U.S. 137 (1999); and other cases in  
898 federal courts applying the standards announced by the United States Supreme Court in  
899 these cases.

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

903 24-7-703.

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

912 24-7-704.

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

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

920 24-7-705.

921 An expert may testify in terms of opinion or inference and give reasons therefor without  
922 first testifying to the underlying facts or data, unless the court requires otherwise. An

923 expert may in any event be required to disclose the underlying facts or data on  
924 cross-examination.

925 24-7-706.

926 Except as provided in Chapter 7 of Title 9 or Code Section 17-7-130.1, 17-10-66, 29-4-11,  
927 29-5-11, 31-14-3, 31-20-3, or 44-6-166.1, the following procedures shall govern the  
928 appointment, compensation, and presentation of testimony of court appointed experts:

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

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

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

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

951 24-7-707.

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

## CHAPTER 8

## ARTICLE 1

957 24-8-801.

958 As used in this chapter, the term:

959 (a) 'Statement' means:

960 (1) An oral or written assertion; or

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

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

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

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

966 (1) Prior statement by witness.

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

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

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

979 (2) Admissions by party-opponent.

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

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

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

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

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

989 (E) A statement by a conspirator of a party during the course and in furtherance of  
 990 the conspiracy, including a statement made during the concealment phase of a

991 conspiracy. A conspiracy need not be charged in order to make a statement admissible  
 992 under this subparagraph.

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

998 (e) 'Public office' means:

999 (1) Every state department, agency, board, bureau, commission, division, public  
 1000 corporation, and authority;

1001 (2) Every county, municipal corporation, school district, or other political subdivision  
 1002 of this state;

1003 (3) Every department, agency, board, bureau, commission, authority, or similar body of  
 1004 each such county, municipal corporation, or other political subdivision of this state; and

1005 (4) Every city, county, regional, or other authority established pursuant to the laws of this  
 1006 state.

1007 (f) 'Public official' means an elected or appointed official.

1008 (g) 'Public record' means information that is inscribed on a tangible medium or that is  
 1009 stored in an electronic or other medium and is retrievable in perceivable form and created  
 1010 in the course of the operation of a public office.

1011 24-8-802.

1012 Hearsay shall not be admissible except as provided by this article; provided, however, that  
 1013 if a party does not properly object to hearsay, the objection shall be deemed waived, and  
 1014 the hearsay evidence shall be legal evidence and admissible.

1015 24-8-803.

1016 The following shall not be excluded by the hearsay rule, even though the declarant is  
 1017 available as a witness:

1018 (1) Present sense impression. A statement describing or explaining an event or condition  
 1019 made while the declarant was perceiving the event or condition or immediately thereafter;

1020 (2) Excited utterance. A statement relating to a startling event or condition made while  
 1021 the declarant was under the stress of excitement caused by the event or condition;

1022 (3) Then existing mental, emotional, or physical condition. A statement of the  
 1023 declarant's then existing state of mind, emotion, sensation, or physical condition, such as  
 1024 intent, plan, motive, design, mental feeling, pain, and bodily health, but not including a  
 1025 statement of memory or belief to prove the fact remembered or believed unless such

1026 statements relate to the execution, revocation, identification, or terms of the declarant's  
1027 will and not including a statement of belief as to the intent of another person;  
1028 (4) *Statements for purposes of medical diagnosis or treatment.* Statements made for  
1029 purposes of medical diagnosis or treatment and describing medical history, or past or  
1030 present symptoms, pain, or sensations, or the inception or general character of the cause  
1031 or external source thereof insofar as reasonably pertinent to diagnosis or treatment;  
1032 (5) *Recorded recollection.* A memorandum or record concerning a matter about which  
1033 a witness once had knowledge but now has insufficient recollection to enable the witness  
1034 to testify fully and accurately shown to have been made or adopted by the witness when  
1035 the matter was fresh in the witness's memory and to reflect that knowledge correctly. If  
1036 admitted, the memorandum or record may be read into evidence but shall not itself be  
1037 received as an exhibit unless offered by an adverse party;  
1038 (6) *Records of regularly conducted activity.* Unless the source of information or the  
1039 method or circumstances of preparation indicate lack of trustworthiness and subject to the  
1040 provisions of Chapter 7 of this title, a memorandum, report, record, or data compilation,  
1041 in any form, of acts, events, conditions, opinions, or diagnoses, if (A) made at or near the  
1042 time of the described acts, events, conditions, opinions, or diagnoses; (B) made by, or  
1043 from information transmitted by, a person with personal knowledge and a business duty  
1044 to report; (C) kept in the course of a regularly conducted business activity; and (D) it was  
1045 the regular practice of that business activity to make the memorandum, report, record, or  
1046 data compilation, all as shown by the testimony of the custodian or other qualified  
1047 witness or by certification that complies with paragraph (11) or (12) of Code Section  
1048 24-9-902 or by any other statute permitting certification. The term 'business' as used in  
1049 this paragraph includes any business, institution, association, profession, occupation, and  
1050 calling of every kind, whether or not conducted for profit. Public records and reports  
1051 shall be admissible under paragraph (8) of this Code section and shall not be admissible  
1052 under this paragraph;  
1053 (7) *Absence of entry in records kept in accordance with paragraph (6) of this Code*  
1054 *section.* Evidence that a matter is not included in the memoranda, reports, records, or  
1055 data compilations, in any form, kept in accordance with the provisions of paragraph (6)  
1056 of this Code section, to prove the nonoccurrence or nonexistence of the matter, if the  
1057 matter was of a kind of which a memorandum, report, record, or data compilation was  
1058 regularly made and preserved, unless the sources of information or other circumstances  
1059 indicate lack of trustworthiness;  
1060 (8) *Public records and reports.* Except as otherwise provided by law, public records,  
1061 reports, statements, or data compilations, in any form, of public offices, setting forth:  
1062 (A) *The activities of the public office;*

1063 (B) Matters observed pursuant to duty imposed by law as to which matters there was  
1064 a duty to report, excluding, however, against the accused in criminal proceedings,  
1065 matters observed by police officers and other law enforcement personnel in connection  
1066 with an investigation; or

1067 (C) In civil proceedings and against the state in criminal proceedings, factual findings  
1068 resulting from an investigation made pursuant to authority granted by law, unless the  
1069 sources of information or other circumstances indicate lack of trustworthiness;

1070 (9) Records of vital statistics. Records or data compilations, in any form, of births, fetal  
1071 deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to  
1072 requirements of law;

1073 (10) Absence of public record or entry. To prove the absence of a record, report,  
1074 statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a  
1075 matter of which a record, report, statement, or data compilation, in any form, was  
1076 regularly made and preserved by a public office, evidence in the form of a certification  
1077 in accordance with Code Section 24-9-902, or testimony, that diligent search failed to  
1078 disclose the record, report, statement, or data compilation, or entry;

1079 (11) Records of religious organizations. Statements of birth, marriages, divorces, deaths,  
1080 legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal  
1081 or family history, contained in a regularly kept record of a religious organization;

1082 (12) Marriage, baptismal, and similar certificates. Statements of fact contained in a  
1083 certificate that the maker performed a marriage or other ceremony or administered a  
1084 sacrament, made by a clergyman, public official, or other person authorized by the rules  
1085 or practices of a religious organization or by law to perform the act certified and  
1086 purporting to have been issued at the time of the act or within a reasonable time  
1087 thereafter;

1088 (13) Family records. Statements of fact concerning personal or family history contained  
1089 in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits,  
1090 engravings on urns, crypts, or tombstones, or the like;

1091 (14) Records of documents affecting an interest in property. The record of a document  
1092 purporting to establish or affect an interest in property, as proof of the content of the  
1093 original recorded document and its execution and delivery by each person by whom it  
1094 purports to have been executed, if the record is a record of a public office and an  
1095 applicable law authorizes the recording of documents of that kind in such office;

1096 (15) Statements in documents affecting an interest in property. A statement contained  
1097 in a document purporting to establish or affect an interest in property if the matter stated  
1098 was relevant to the purpose of the document, unless dealings with the property since the

1099 document was made have been inconsistent with the truth of the statement or the purport  
1100 of the document;

1101 (16) *Statements in ancient documents.* Statements in a document in existence 20 years  
1102 or more the authenticity of which is established;

1103 (17) *Market reports and commercial publications.* Market quotations, tabulations, lists,  
1104 directories, or other published compilations generally used and relied upon by the public  
1105 or by persons in the witness's particular occupation;

1106 (18) *Learned treatises.* To the extent called to the attention of an expert witness upon  
1107 cross-examination, statements contained in published treatises, periodicals, or pamphlets,  
1108 whether published electronically or in print, on a subject of history, medicine, or other  
1109 science or art, established as a reliable authority by the testimony or admission of the  
1110 witness, by other expert testimony, or by judicial notice. If admitted, the statements may  
1111 be used for cross-examination of an expert witness and read into evidence but shall not  
1112 be received as exhibits;

1113 (19) *Reputation concerning personal or family history.* Reputation among members of  
1114 a person's family by blood, adoption, or marriage or among a person's associates or in the  
1115 community concerning a person's birth, adoption, marriage, divorce, death, legitimacy,  
1116 relationship by blood, adoption, or marriage, ancestry, or other similar fact of the person's  
1117 personal or family history;

1118 (20) *Reputation concerning boundaries or general history.* Reputation in a community,  
1119 arising before the controversy, as to boundaries of or customs affecting lands in the  
1120 community and reputation as to events of general history important to the community or  
1121 state or nation in which such lands are located;

1122 (21) *Reputation as to character.* Reputation of a person's character among associates or  
1123 in the community;

1124 (22) *Judgment of previous conviction.* Evidence of a final judgment, entered after a trial  
1125 or upon a plea of guilty but not upon a plea of nolo contendere, adjudging a person guilty  
1126 of a crime punishable by death or imprisonment in excess of one year to prove any fact  
1127 essential to sustain the judgment, but not including, when offered by the state in a  
1128 criminal prosecution for purposes other than impeachment, judgments against persons  
1129 other than the accused. The pendency of an appeal may be shown but shall not affect  
1130 admissibility; or

1131 (23) *Judgment as to personal, family, or general history or boundaries.* Judgments as  
1132 proof of matters of personal, family, or general history or boundaries essential to the  
1133 judgment, if the same would be provable by evidence of reputation.

1134 24-8-804.

1135 (a) As used in this Code section, the term 'unavailable as a witness' includes situations in  
 1136 which the declarant:

1137 (1) Is exempted by ruling of the court on the ground of privilege from testifying  
 1138 concerning the subject matter of the declarant's statement;

1139 (2) Persists in refusing to testify concerning the subject matter of the declarant's  
 1140 statement despite an order of the court to do so;

1141 (3) Testifies to a lack of memory of the subject matter of the declarant's statement;

1142 (4) Is unable to be present or to testify at the hearing because of death or then existing  
 1143 physical or mental illness or infirmity; or

1144 (5) Is absent from the hearing and the proponent of the statement has been unable to  
 1145 procure the declarant's attendance or, in the case of exceptions under paragraph (2), (3),  
 1146 or (4) of subsection (b) of this Code section, the declarant's attendance or testimony, by  
 1147 process or other reasonable means.

1148 A declarant shall not be deemed unavailable as a witness if the declarant's exemption,  
 1149 refusal, claim of lack of memory, inability, or absence is due to the procurement or  
 1150 wrongdoing of the proponent of a statement for the purpose of preventing the witness from  
 1151 attending or testifying.

1152 (b) The following shall not be excluded by the hearsay rule if the declarant is unavailable  
 1153 as a witness:

1154 (1) Testimony given as a witness at another hearing of the same or a different  
 1155 proceeding, or in a deposition taken in compliance with law in the course of the same or  
 1156 another proceeding, if the party against whom the testimony is now offered, or, in a civil  
 1157 proceeding, a predecessor in interest, had an opportunity and similar motive to develop  
 1158 the testimony by direct, cross, or redirect examination. If deposition testimony is  
 1159 admissible under either the rules stated in Code Section 9-11-32 or this Code section, it  
 1160 shall be admissible at trial in accordance with the rules under which it was offered;

1161 (2) In a prosecution for homicide or in a civil proceeding, a statement made by a  
 1162 declarant while believing that his or her death was imminent, concerning the cause or  
 1163 circumstances of what the declarant believed to be impending death;

1164 (3) A statement which was at the time of its making so far contrary to the declarant's  
 1165 pecuniary or proprietary interest or so far tended to subject the declarant to civil or  
 1166 criminal liability or to render invalid a claim by the declarant against another that a  
 1167 reasonable person in the declarant's position would not have made the statement unless  
 1168 believing it to be true. In a criminal proceeding, a statement tending to expose the  
 1169 declarant to criminal liability shall not be admissible unless corroborating circumstances  
 1170 clearly indicate the trustworthiness of the statement;

1171 (4) A statement concerning the declarant's own birth, adoption, marriage, divorce,  
 1172 legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact  
 1173 of personal or family history, even though the declarant had no means of acquiring  
 1174 personal knowledge of the matter stated or a statement concerning the foregoing matters  
 1175 and death also of another person, if the declarant was related to the other by blood,  
 1176 adoption, or marriage or was so intimately associated with the other's family as to be  
 1177 likely to have accurate information concerning the matter declared; or  
 1178 (5) A statement offered against a party that has engaged or acquiesced in wrongdoing  
 1179 that was intended to, and did, procure the unavailability of the declarant as a witness.

1180 24-8-805.

1181 Hearsay included within hearsay shall not be excluded under the hearsay rule if each part  
 1182 of the combined statements conforms with an exception to the hearsay rule.

1183 24-8-806.

1184 When a hearsay statement has been admitted in evidence, the credibility of the declarant  
 1185 may be attacked and, if attacked, may be supported by any evidence which would be  
 1186 admissible for those purposes if the declarant had testified as a witness. Evidence of a  
 1187 statement or conduct by the declarant at any time, inconsistent with the declarant's hearsay  
 1188 statement, shall not be subject to any requirement that the declarant may have been  
 1189 afforded an opportunity to deny or explain. If the party against whom a hearsay statement  
 1190 has been admitted calls the declarant as a witness, the party shall be entitled to examine the  
 1191 declarant on the statement as if under cross-examination.

1192 24-8-807.

1193 A statement not specifically covered by any law but having equivalent circumstantial  
 1194 guarantees of trustworthiness shall not be excluded by the hearsay rule, if the court  
 1195 determines that:

- 1196 (1) The statement is offered as evidence of a material fact;  
 1197 (2) The statement is more probative on the point for which it is offered than any other  
 1198 evidence which the proponent can procure through reasonable efforts; and  
 1199 (3) The general purposes of the rules of evidence and the interests of justice will best be  
 1200 served by admission of the statement into evidence.

1201 However, a statement shall not be admitted under this Code section unless the proponent  
 1202 of it makes known to the adverse party, sufficiently in advance of the trial or hearing to  
 1203 provide the adverse party with a fair opportunity to prepare to meet it, the proponent's

1204 intention to offer the statement and the particulars of it, including the name and address of  
1205 the declarant.

1206 ARTICLE 2

1207 24-8-820.

1208 A statement made by a child under the age of 14 years describing any act of sexual contact  
1209 or physical abuse performed with or on the child by another shall be admissible in evidence  
1210 by the testimony of the person to whom made if the child is available to testify in the  
1211 proceedings and the court finds that the circumstances of the statement provide sufficient  
1212 indicia of reliability.

1213 24-8-821.

1214 Without offering the same in evidence, either party may avail himself or herself of  
1215 allegations or admissions made in the pleadings of the other.

1216 24-8-822.

1217 When an admission is given in evidence by one party, it shall be the right of the other party  
1218 to have the whole admission and all the conversation connected therewith admitted into  
1219 evidence.

1220 24-8-823.

1221 All admissions shall be scanned with care, and confessions of guilt shall be received with  
1222 great caution. A confession alone, uncorroborated by any other evidence, shall not justify  
1223 a conviction.

1224 24-8-824.

1225 To make a confession admissible, it shall have been made voluntarily, without being  
1226 induced by another by the slightest hope of benefit or remotest fear of injury.

1227 24-8-825.

1228 The fact that a confession has been made under a spiritual exhortation, a promise of  
1229 secrecy, or a promise of collateral benefit shall not exclude it.

1230 24-8-826.

1231 The confession of one joint offender or conspirator, made after the enterprise ended, shall  
1232 be admissible only against such offender or conspirator.

1233 24-8-827.

1234 (a) Upon the trial of any civil proceeding involving injury or disease, any medical report  
 1235 in narrative form which has been signed and dated by an examining or treating licensed  
 1236 physician, dentist, orthodontist, podiatrist, physical or occupational therapist, doctor of  
 1237 chiropractic, psychologist, advanced practice registered nurse, social worker, professional  
 1238 counselor, or marriage and family therapist shall be admissible and received in evidence  
 1239 insofar as it purports to represent the history, examination, diagnosis, treatment, prognosis,  
 1240 or interpretation of tests or examinations, including the basis therefor, by the person signing  
 1241 the report, the same as if that person were present at trial and testifying as a witness;  
 1242 provided, however, that such report and notice of intention to introduce such report shall  
 1243 first be provided to the adverse party at least 60 days prior to trial. A statement of the  
 1244 qualifications of the person signing such report shall be included as part of the basis for  
 1245 providing the information contained therein, and the opinion of the person signing the  
 1246 report with regard to the etiology of the injury or disease may be included as part of the  
 1247 diagnosis. Any adverse party may object to the admissibility of any portion of the report,  
 1248 other than on the ground that it is hearsay, within 15 days of being provided with the report.  
 1249 Further, any adverse party shall have the right to cross-examine the person signing the  
 1250 report and provide rebuttal testimony. The party tendering the report may also introduce  
 1251 testimony of the person signing the report for the purpose of supplementing the report or  
 1252 otherwise.

1253 (b) The medical narrative shall be presented to the jury as depositions are presented to the  
 1254 jury and shall not go out with the jury as documentary evidence.

1255 CHAPTER 9

1256 ARTICLE 1

1257 24-9-901.

1258 (a) The requirement of authentication or identification as a condition precedent to  
 1259 admissibility shall be satisfied by evidence sufficient to support a finding that the matter  
 1260 in question is what its proponent claims.

1261 (b) By way of illustration only, and not by way of limitation, the following are examples  
 1262 of authentication or identification conforming with the requirements of this Code section:

1263 (1) Testimony of a witness with knowledge that a matter is what it is claimed to be;  
 1264 (2) Nonexpert opinion as to the genuineness of handwriting, based upon familiarity not  
 1265 acquired for purposes of the litigation;

- 1266 (3) Comparison by the trier of fact or by expert witnesses with specimens which have  
 1267 been authenticated. Such specimens shall be furnished to the opposite party no later than  
 1268 ten days prior to trial;
- 1269 (4) Appearance, contents, substance, internal patterns, or other distinctive characteristics,  
 1270 taken in conjunction with circumstances;
- 1271 (5) Identification of a voice, whether heard firsthand or through mechanical or electronic  
 1272 transmission or recording, by opinion based upon hearing the voice at any time under  
 1273 circumstances connecting it with the alleged speaker;
- 1274 (6) Telephone conversations, by evidence that a call was made to the number assigned  
 1275 at the time by a telephone service provider to a particular person or business, if:
- 1276 (A) In the case of a person, circumstances, including self-identification, show the  
 1277 person answering to be the one called; or
- 1278 (B) In the case of a business, the call was made to a place of business and the  
 1279 conversation related to business reasonably transacted over the telephone;
- 1280 (7) Evidence that a document authorized by law to be recorded or filed and in fact  
 1281 recorded or filed in a public office or a purported public record, report, statement, or data  
 1282 compilation, in any form, is from the public office where items of this nature are kept;
- 1283 (8) Evidence that a document or data compilation, in any form:
- 1284 (A) Is in such condition as to create no suspicion concerning its authenticity;
- 1285 (B) Was in a place where it, if authentic, would likely be; and
- 1286 (C) Has been in existence 20 years or more at the time it is offered;
- 1287 (9) Evidence describing a process or system used to produce a result and showing that  
 1288 the process or system produces an accurate result; or
- 1289 (10) Any method of authentication or identification provided by law.

1290 24-9-902.

1291 Extrinsic evidence of authenticity as a condition precedent to admissibility shall not be  
 1292 required with respect to the following:

- 1293 (1) A document bearing a seal purporting to be that of the United States or of any state,  
 1294 district, commonwealth, territory, or insular possession thereof or the Panama Canal Zone  
 1295 or the Trust Territory of the Pacific Islands or of a political subdivision, department,  
 1296 officer, or agency thereof or of a municipal corporation of this state and bearing a  
 1297 signature purporting to be an attestation or execution;
- 1298 (2) A document purporting to bear the signature in the official capacity of an officer or  
 1299 employee of any entity included in paragraph (1) of this Code section having no seal, if  
 1300 a public officer having a seal and having official duties in the district or political

1301 subdivision of the officer or employee certifies under seal that the signer has the official  
1302 capacity and that the signature is genuine;

1303 (3) A document purporting to be executed or attested in an official capacity by a person  
1304 authorized by the laws of a foreign country to make such execution or attestation and  
1305 accompanied by a final certification as to the genuineness of the signature, official  
1306 position of the executing or attesting person, or of any foreign official whose certificate  
1307 of genuineness of signature and official position relates to such execution or attestation  
1308 or is in a chain of certificates of genuineness of signature and official position relating to  
1309 such execution or attestation. A final certification may be made by a secretary of  
1310 embassy or legation, consul general, consul, vice consul, or consular agent of the United  
1311 States or a diplomatic or consular official of the foreign country assigned or accredited  
1312 to the United States. If reasonable opportunity has been given to all parties to investigate  
1313 the authenticity and accuracy of official documents, the court may, for good cause shown,  
1314 order that such documents be treated as presumptively authentic without final  
1315 certification or permit such documents to be evidenced by an attested summary with or  
1316 without final certification;

1317 (4) A duplicate of an official record or report or entry therein or of a document  
1318 authorized by law to be recorded or filed and actually recorded or filed in a public office,  
1319 including data compilations in any form, certified as correct by the custodian or other  
1320 person authorized to make the certification by certificate complying with paragraph (1),  
1321 (2), or (3) of this Code section or complying with any law of the United States or of this  
1322 state, including Code Section 24-9-920;

1323 (5) Books, pamphlets, or other publications purporting to be issued by a public office;

1324 (6) Printed materials purporting to be newspapers or periodicals;

1325 (7) Inscriptions, signs, tags, or labels purporting to have been affixed in the course of  
1326 business and indicating ownership, control, or origin;

1327 (8) Documents accompanied by a certificate of acknowledgment executed in the manner  
1328 provided by law by a notary public or other officer authorized by law to take  
1329 acknowledgments;

1330 (9) Commercial paper, signatures thereon, and documents relating thereto to the extent  
1331 provided by general commercial law;

1332 (10) Any signature, document, or other matter declared by any law of the United States  
1333 or of this state to be presumptively or prima facie genuine or authentic;

1334 (11) The original or a duplicate of a domestic record of regularly conducted activity that  
1335 would be admissible under paragraph (6) of Code Section 24-8-803 if accompanied by  
1336 a written declaration of its custodian or other qualified person certifying that the record:

- 1337 (A) Was made at or near the time of the occurrence of the matters set forth by, or from  
 1338 information transmitted by, a person with knowledge of such matters;  
 1339 (B) Was kept in the course of the regularly conducted activity; and  
 1340 (C) Was made by the regularly conducted activity as a regular practice.

1341 A party intending to offer a record into evidence under this paragraph shall provide  
 1342 written notice of such intention to all adverse parties and shall make the record and  
 1343 declaration available for inspection sufficiently in advance of their offer into evidence to  
 1344 provide an adverse party with a fair opportunity to challenge such record and declaration;  
 1345 or

1346 (12) In a civil proceeding, the original or a duplicate of a foreign record of regularly  
 1347 conducted activity that would be admissible under paragraph (6) of Code Section  
 1348 24-8-803 if accompanied by a written declaration by its custodian or other qualified  
 1349 person certifying that the record:

- 1350 (A) Was made at or near the time of the occurrence of the matters set forth by, or from  
 1351 information transmitted by, a person with knowledge of those matters;  
 1352 (B) Was kept in the course of the regularly conducted activity; and  
 1353 (C) Was made by the regularly conducted activity as a regular practice.

1354 The declaration shall be signed in a manner that, if falsely made, would subject the maker  
 1355 to criminal penalty under the laws of the country where the declaration is signed. A party  
 1356 intending to offer a record into evidence under this paragraph shall provide written notice  
 1357 of such intention to all adverse parties and shall make the record and declaration available  
 1358 for inspection sufficiently in advance of their offer into evidence to provide an adverse  
 1359 party with a fair opportunity to challenge such record and declaration.

1360 24-9-903.

1361 The testimony of a subscribing witness shall not be necessary to authenticate a writing  
 1362 unless required by the laws of the jurisdiction whose laws govern the validity of the  
 1363 writing.

1364 24-9-904.

1365 As used in this article, the term:

- 1366 (1) 'Public office' shall have the same meaning as set forth in Code Section 24-8-801.  
 1367 (2) 'Public officer' means any person appointed or elected to be the head of any entity  
 1368 included in paragraph (1) of Code Section 24-9-902.  
 1369 (3) 'Telephone service provider' shall have the same meaning as 'voice service provider'  
 1370 as set forth in Code Section 46-5-231.

1371

ARTICLE 21372 24-9-920.

1373 The certificate or attestation of any public officer either of this state or any county thereof  
1374 or any clerk or keeper of county, consolidated government, or municipal records in this  
1375 state shall give sufficient validity or authenticity to any copy or transcript of any record,  
1376 document, paper or file, or other matter or thing in such public officer's respective office,  
1377 or pertaining thereto, to admit the same in evidence.

1378 24-9-921.

1379 (a) Upon the trial of any civil proceeding involving injury or disease, the patient or the  
1380 member of his or her family or other person responsible for the care of the patient shall be  
1381 a competent witness to identify bills for expenses incurred in the treatment of the patient  
1382 upon a showing by such a witness that the expenses were incurred in connection with the  
1383 treatment of the injury, disease, or disability involved in the subject of litigation at trial and  
1384 that the bills were received from:

1385 (1) A hospital;1386 (2) An ambulance service;1387 (3) A pharmacy, drugstore, or supplier of therapeutic or orthopedic devices; or

1388 (4) A licensed practicing physician, dentist, orthodontist, podiatrist, physical or  
1389 occupational therapist, doctor of chiropractic, psychologist, advanced practice registered  
1390 nurse, social worker, professional counselor, or marriage and family therapist.

1391 (b) Such items of evidence need not be identified by the one who submits the bill, and it  
1392 shall not be necessary for an expert witness to testify that the charges were reasonable and  
1393 necessary. However, nothing in this Code section shall be construed to limit the right of  
1394 a thorough and sifting cross-examination as to such items of evidence.

1395 24-9-922.

1396 The acts of the legislature of any other state, territory, or possession of the United States,  
1397 the records and judicial proceedings of any court of any such state, territory, or possession,  
1398 and the nonjudicial records or books kept in the public offices in any such state, territory,  
1399 or possession, if properly authenticated, shall have the same full faith and credit in every  
1400 court within this state as they have by law or usage in the courts of such state, territory, or  
1401 possession from which they are taken.

1402 24-9-923.

1403 (a) As used in this Code section, the term 'unavailability of a witness' includes situations  
1404 in which the authenticating witness:

1405 (1) Is exempted by ruling of the court on the ground of privilege from testifying  
1406 concerning the subject matter of the authentication;

1407 (2) Persists in refusing to testify concerning the subject matter of the authentication  
1408 despite an order of the court to do so;

1409 (3) Testifies to a lack of memory of the subject matter of the authentication;

1410 (4) Is unable to be present or to testify at the hearing because of death or then existing  
1411 physical or mental illness or infirmity; or

1412 (5) Is absent from the hearing and the proponent of the authentication has been unable  
1413 to procure the attendance of the authenticating witness by process or other reasonable  
1414 means.

1415 An authenticating witness shall not be deemed unavailable as a witness if his or her  
1416 exemption, refusal, claim of lack of memory, inability, or absence is due to the  
1417 procurement or wrongdoing of the proponent of an authentication for the purpose of  
1418 preventing the witness from attending or testifying.

1419 (b) Subject to any other valid objection, photographs, motion pictures, video recordings,  
1420 and audio recordings shall be admissible in evidence when necessitated by the  
1421 unavailability of a witness who can provide personal authentication and when the court  
1422 determines, based on competent evidence presented to the court, that such items tend to  
1423 show reliably the fact or facts for which the items are offered.

1424 (c) Subject to any other valid objection, photographs, motion pictures, video recordings,  
1425 and audio recordings produced at a time when the device producing the items was not  
1426 being operated by an individual person or was not under the personal control or in the  
1427 presence of an individual operator shall be admissible in evidence when the court  
1428 determines, based on competent evidence presented to the court, that such items tend to  
1429 show reliably the fact or facts for which the items are offered, provided that, prior to the  
1430 admission of such evidence, the date and time of such photograph, motion picture, or video  
1431 recording shall be contained on such evidence, and such date and time shall be shown to  
1432 have been made contemporaneously with the events depicted in such photograph, motion  
1433 picture, or video recording.

1434 (d) This Code section shall not be the exclusive method of introduction into evidence of  
1435 photographs, motion pictures, video recordings, and audio recordings but shall be  
1436 supplementary to any other law and lawful methods existing in this state.

1437 24-9-924.

1438 (a) Any court may receive and use as evidence in any proceeding information otherwise  
 1439 admissible from the records of the Department of Public Safety or the Department of  
 1440 Driver Services obtained from any terminal lawfully connected to the Georgia Crime  
 1441 Information Center without the need for additional certification of such records.

1442 (b) Any court may receive and use as evidence for the purpose of imposing a sentence in  
 1443 any criminal proceeding information otherwise admissible from the records of the  
 1444 Department of Driver Services obtained from a request made in accordance with a contract  
 1445 with the Georgia Technology Authority for immediate on-line electronic furnishing of  
 1446 information.

1447 CHAPTER 10

1448 24-10-1001.

1449 As used in this chapter, the term:

1450 (1) 'Writing' or 'recording' means letters, words, or numbers, or their equivalent, set down  
 1451 by handwriting, typewriting, printing, photostating, magnetic impulse, or mechanical or  
 1452 electronic recording or other form of data compilation.

1453 (2) 'Photograph' includes still photographs, X-ray films, video recordings, and motion  
 1454 pictures.

1455 (3) 'Original' means the writing or recording itself or any counterpart intended to have  
 1456 the same effect by a person executing or issuing it. An original of a photograph includes  
 1457 the negative or any print therefrom. If data are stored in a computer or similar device,  
 1458 any printout or other output readable by sight, shown to reflect the data accurately, is an  
 1459 original.

1460 (4) 'Duplicate' means a counterpart produced by the same impression as the original or  
 1461 from the same matrix or by means of photography, including enlargements and  
 1462 miniatures, or by mechanical or electronic rerecording, chemical reproduction, or other  
 1463 equivalent techniques which accurately reproduce the original.

1464 (5) 'Public record' shall have the same meaning as set forth in Code Section 24-8-801.

1465 24-10-1002.

1466 To prove the contents of a writing, recording, or photograph, the original writing,  
 1467 recording, or photograph shall be required.

1468 24-10-1003.

1469 A duplicate shall be admissible to the same extent as an original unless:

1470 (1) A genuine question is raised as to the authenticity of the original; or  
1471 (2) A circumstance exists where it would be unfair to admit the duplicate in lieu of the  
1472 original.

1473 24-10-1004.

1474 The original shall not be required and other evidence of the contents of a writing,  
1475 recording, or photograph shall be admissible if:

1476 (1) All originals are lost or have been destroyed, unless the proponent lost or destroyed  
1477 them in bad faith;

1478 (2) No original can be obtained by any available judicial process or procedure;

1479 (3) At a time when an original was under the control of the party against whom offered,  
1480 that party was put on notice, by the pleadings or otherwise, that the contents would be a  
1481 subject of proof at the hearing, and that party does not produce the original at the hearing;

1482 or

1483 (4) The writing, recording, or photograph is not closely related to a controlling issue.

1484 24-10-1005.

1485 The contents of a public record, or of a document authorized to be recorded or filed and  
1486 actually recorded or filed, including data compilations in any form, if otherwise admissible,  
1487 may be proved by duplicate, certified as correct in accordance with Code Section 24-9-902  
1488 or Code Section 24-9-920 or testified to be correct by a witness who has compared it with  
1489 the original. If a duplicate which complies with this Code section cannot be obtained by  
1490 the exercise of reasonable diligence, then other evidence of the contents may be given.

1491 24-10-1006.

1492 The contents of otherwise admissible voluminous writings, recordings, or photographs  
1493 which cannot conveniently be examined in court may be presented in the form of a chart,  
1494 summary, or calculation. The originals, or duplicates, shall be made available for  
1495 examination or copying, or both, by other parties at a reasonable time and place. The court  
1496 may order that the contents of such writings, recordings, or photographs be produced in  
1497 court.

1498 24-10-1007.

1499 The contents of writings, recordings, or photographs may be proved by the testimony or  
1500 deposition of the party against whom offered or by that party's written admission, without  
1501 accounting for the nonproduction of the original.

1502 24-10-1008.

1503 When the admissibility of other evidence of the contents of writings, recordings, or  
 1504 photographs under the rules of evidence depends upon the fulfillment of a condition of fact,  
 1505 the question of whether the condition has been fulfilled is ordinarily for the court to  
 1506 determine in accordance with the provisions of Code Section 24-1-104; provided, however,  
 1507 that when an issue is raised as to:

1508 (1) Whether the asserted writing, recording, or photograph ever existed;

1509 (2) Whether another writing, recording, or photograph produced at the trial is the  
 1510 original; or

1511 (3) Whether other evidence of the contents correctly reflects the contents,

1512 the issue is for the trier of fact to determine as in the case of other issues of fact.

1513 CHAPTER 11

1514 ARTICLE 1

1515 24-11-1.

1516 As used in this chapter, the term:

1517 (1) 'Custodian' means the person charged with the duty of maintaining public records.

1518 (2) 'Duplicate' means a counterpart which accurately reproduces the original.

1519 (3) 'Public record' shall have the same meaning as set forth in Code Section 24-8-801.

1520 24-11-2.

1521 (a) Where any original public records have been lost, mutilated, stolen, or destroyed, the  
 1522 custodian may establish duplicates in accordance with the provisions of this article. When  
 1523 such public records are established by duplicates, they shall have all of the effect in  
 1524 evidence as the original records would have had.

1525 (b) The custodian of the lost, mutilated, stolen, or destroyed public records shall bring a  
 1526 petition to establish such records in the superior court of the county in which the public  
 1527 records were located.

1528 (c) The petition shall set forth the fact that some portion of the public records has been  
 1529 lost, mutilated, stolen, or destroyed, specifying as nearly as may be possible the books or  
 1530 parts of the books in which those records existed, and shall pray for the establishment of  
 1531 such records.

1532 24-11-3.

1533 (a) The court shall either appoint an auditor for such petition in accordance with Chapter  
 1534 7 of Title 9 or shall conduct a hearing on the petition. If an auditor is appointed, the

1535 provisions of Code Sections 9-7-1 through 9-7-16 and Code Section 9-7-21 shall apply to  
 1536 such proceedings. An auditor shall receive compensation for services rendered as may be  
 1537 allowed by the court, to be paid out of the funds of the office of the custodian whose  
 1538 records were lost, mutilated, stolen, or destroyed.

1539 (b) If the court hears the petition, after receiving evidence, the court shall determine  
 1540 whether the purported duplicate is, in fact, the same as the original record which has been  
 1541 lost, mutilated, stolen, or destroyed, and it shall be discretionary with the court to order the  
 1542 whole or any part of such records established. The court shall give precedence to a petition  
 1543 filed pursuant to this article and hear the petition as speedily as possible.

1544 (c) The duplicates which are established pursuant to this Code section, as nearly as may  
 1545 be possible, shall specify and conform to the original book and pages of the same on which  
 1546 they originally existed.

1547 ARTICLE 2

1548 24-11-20.

1549 (a) Upon the loss of any original pleading, declaration, bill of indictment, special  
 1550 presentment, accusation, or other office paper, a duplicate may be established instanter on  
 1551 motion.

1552 (b) As used in this article, the term 'office paper' means the instrument upon which a  
 1553 proceeding has been brought after the case has gone to trial.

1554 24-11-21.

1555 (a) The owner, agent of the owner, or legal representative of the owner of any bond, bill,  
 1556 note, draft, check, or other evidence of indebtedness which has been lost or destroyed may  
 1557 establish a duplicate of the same in a summary manner by filing a petition with the judge  
 1558 of the probate court of the county of the residence of the alleged debtor or maker, if he or  
 1559 she is a resident of this state; and the judge of the probate court shall be deemed a judicial  
 1560 officer for the purpose of this Code section. The petition shall be sworn to by the party  
 1561 applying and shall contain as full and accurate a description as possible of the lost paper,  
 1562 of the loss and mode of loss, and of the inability to find the same and why, along with a  
 1563 prayer for the establishment of a duplicate setting forth the duplicate desired to be  
 1564 established.

1565 (b) Upon the filing of a petition, the judge shall issue a citation or notice to the alleged  
 1566 debtor or maker requiring the debtor or maker to appear at a day not more than ten days  
 1567 distant and show cause, if he or she has any, why the duplicate should not be established

1568 in lieu of the lost original. The citation or notice shall be personally served in the manner  
1569 provided in Code Section 9-11-4 at least five days before the time of the hearing.

1570 (c) If no successful defense is made at the time and place appointed, the judge shall  
1571 proceed to establish, by an order entered on the petition, the duplicate so prayed to be  
1572 established, which shall have all the effect of the original. The petition, notice, and order  
1573 shall be entered in a book of record specially prepared for this purpose.

1574 (d) If the debtor or maker files a defense under oath to the effect that the original never  
1575 existed as claimed, the judge shall decide the case, after giving the parties time for  
1576 preparation and hearing, not to exceed 20 days. If the judge's decision is in favor of the  
1577 applicant and no appeal is entered as provided in subsection (e) of this Code section, the  
1578 decision shall be entered on the petition, and the duplicate so established shall have the  
1579 same effect as an original. If the judge's decision is in favor of the alleged debtor or maker,  
1580 the judge shall also enter his or her decision on the petition. In all cases, the proceedings  
1581 shall be recorded as provided in subsection (c) of this Code section.

1582 (e) Except as provided in Article 6 of Chapter 9 of Title 15, if either party to the  
1583 proceedings provided for in this Code section is dissatisfied, such party may appeal upon  
1584 giving the usual bond and security for costs, as in cases of appeal from the probate court  
1585 to the superior court. The appeal shall be tried in the superior court from all the pleadings  
1586 and proceedings as were before the judge of the probate court. In the superior court, the  
1587 case shall be tried and determined as provided in Code Sections 24-11-23 through  
1588 24-11-26.

1589 (f) This Code section shall not apply to evidences of indebtedness to which Title 11, the  
1590 'Uniform Commercial Code,' is applicable.

1591 24-11-22.

1592 When the person alleged to be a debtor or maker of a lost or destroyed paper as set forth  
1593 in Code Section 24-11-21 does not reside in this state, the alleged debtor or maker may be  
1594 made a party to the proceedings by publication, in a newspaper to be designated by the  
1595 judge of the probate court, twice a month for two months. When the person has been made  
1596 a party, this article shall apply in his or her case.

1597 24-11-23.

1598 (a) The owner of a lost or destroyed paper which is not an office paper, as defined in Code  
1599 Section 24-11-20, who desires to establish such paper shall present to the clerk of the  
1600 superior court of the county where the maker of the paper resides, if the maker is a resident  
1601 of this state, a petition in writing, together with a duplicate, in substance, of the paper lost

1602 or destroyed, as nearly as he or she can recollect, which duplicate shall be sworn to by the  
1603 petitioner, the petitioner's agent, or the petitioner's attorney.

1604 (b) The clerk shall issue a rule nisi in the name of the judge of the superior court calling  
1605 upon the opposite party to show cause, if he or she has any, why the duplicate sworn to  
1606 should not be established in lieu of the lost or destroyed original. If the respondent is found  
1607 in this state, the rule nisi shall be served personally upon the respondent in the manner  
1608 provided by Code Section 9-11-4 at least 20 days before the sitting of the court to which  
1609 the rule nisi is made returnable. If the respondent cannot be found in this state, the rule nisi  
1610 shall be served upon the respondent by publication in the manner provided in Code Section  
1611 9-11-4 before the final hearing of the rule nisi.

1612 24-11-24.

1613 In a proceeding to establish lost papers under Code Section 24-11-23, no continuance shall  
1614 be granted unless it appears reasonable and just to the court; nor shall a continuance be  
1615 allowed to the same party more than once, except for providential cause.

1616 24-11-25.

1617 When a rule nisi has been served as provided in Code Section 24-11-23, the court shall  
1618 grant a rule absolute establishing the duplicate of the lost or destroyed paper sworn to,  
1619 unless good and sufficient cause is shown why the rule absolute should not be granted.

1620 24-11-26.

1621 When the duplicate of the lost or destroyed paper is established, the clerk of the court in  
1622 which it is done shall furnish the duplicate to the party who had it established, with a  
1623 certified endorsement thereon of the day and term of the court when the rule absolute was  
1624 granted, provided all costs of the proceeding have been paid.

1625 24-11-27.

1626 (a) If the paper which has been lost or destroyed is a note, bill, bond, or other instrument  
1627 upon which a proceeding may be brought, the owner may institute a proceeding thereon  
1628 as soon as the rule nisi has been issued as provided for in Code Section 24-11-23. The  
1629 complaint shall set forth that the paper upon which the proceeding is based is lost or  
1630 destroyed. In no case shall a judgment be entered in the proceeding until it is determined  
1631 whether the application to establish the paper is granted or not. If the application is  
1632 granted, then judgment shall be entered as in other proceedings.

1633 (b) In a proceeding as provided for in subsection (a) of this Code section, production of  
1634 the paper upon which the proceeding is based shall not be demanded until the time for

1635 rendition of judgment in the proceeding; at that time, if the plaintiff produces a duplicate  
 1636 of the paper with a certified endorsement thereon by the clerk of the court in which it was  
 1637 established, as provided in Code Section 24-11-26, it shall be taken and considered as the  
 1638 original.

1639 (c) This Code section shall not apply to instruments to which Title 11, the 'Uniform  
 1640 Commercial Code,' is applicable.

1641 24-11-28.

1642 In all proceedings for the purpose of establishing any lost or destroyed paper other than an  
 1643 office paper, as defined in Code Section 24-11-20, any person whose interest will be  
 1644 affected by the establishment of the lost paper shall, upon motion, by order of the court, be  
 1645 made a party respondent in the proceeding and shall be allowed all the rights of defense  
 1646 against the establishment of the paper as fully as if he or she was the maker of the lost  
 1647 paper.

1648 24-11-29.

1649 Other than Code Section 24-11-20, this article shall not apply to lost or destroyed papers  
 1650 to which Title 11, the 'Uniform Commercial Code,' is applicable.

1651 CHAPTER 12

1652 ARTICLE 1

1653 24-12-1.

1654 (a) No physician licensed under Chapter 34 of Title 43 and no hospital or health care  
 1655 facility, including those operated by an agency or bureau of this state or other governmental  
 1656 unit, shall be required to release any medical information concerning a patient except to the  
 1657 Department of Human Resources, its divisions, agents, or successors when required in the  
 1658 administration of public health programs pursuant to Code Section 31-12-2 and where  
 1659 authorized or required by law, statute, or lawful regulation; or on written authorization or  
 1660 other waiver by the patient, or by his or her parents or duly appointed guardian ad litem in  
 1661 the case of a minor, or on appropriate court order or subpoena; provided, however, that any  
 1662 physician, hospital, or health care facility releasing information under written authorization  
 1663 or other waiver by the patient, or by his or her parents or guardian ad litem in the case of  
 1664 a minor, or pursuant to law, statute, or lawful regulation, or under court order or subpoena  
 1665 shall not be liable to the patient or any other person; provided, further, that the privilege  
 1666 shall be waived to the extent that the patient places his or her care and treatment or the  
 1667 nature and extent of his or her injuries at issue in any judicial proceeding. This Code

1668 section shall not apply to psychiatrists or to hospitals in which the patient is being or has  
1669 been treated solely for mental illness.

1670 (b) No pharmacist licensed under Chapter 4 of Title 26 shall be required to release any  
1671 medical information concerning a patient except on written authorization or other waiver  
1672 by the patient, or by his or her parents or duly appointed guardian ad litem in the case of  
1673 a minor, or upon appropriate court order or subpoena; provided, however, that any  
1674 pharmacist releasing information under written authorization or other waiver by the patient,  
1675 or by his or her parents or duly appointed guardian ad litem in the case of a minor, or upon  
1676 appropriate court order or subpoena shall not be liable to the patient or any other person;  
1677 provided, further, that the privilege shall be waived to the extent that the patient places his  
1678 or her care and treatment or the nature and extent of his or her injuries at issue in any  
1679 judicial proceeding.

1680 24-12-2.

1681 (a) The General Assembly finds and declares that protecting the confidentiality of research  
1682 data from disclosure in judicial and administrative proceedings is essential to safeguarding  
1683 the integrity of research in this state, guaranteeing the privacy of individuals who  
1684 participate in research projects, and ensuring the continuation of research in science,  
1685 medicine, and other fields that benefits the citizens and institutions of Georgia and other  
1686 states. The protection of such research data has more than local significance, is of equal  
1687 importance to all citizens of this state, is of state-wide concern, and consequently is  
1688 properly a matter for regulation under the police power of this state.

1689 (b) As used in this Code section, the term 'confidential raw research data' means medical  
1690 information, interview responses, reports, statements, memoranda, or other data relating  
1691 to the condition, treatment, or characteristics of any person which are gathered by or  
1692 provided to a researcher:

1693 (1) In support of a research study approved by an appropriate research oversight  
1694 committee of a hospital, health care facility, or educational institution; and

1695 (2) With the objective to develop, study, or report aggregate or anonymous information  
1696 not intended to be used in any way in which the identity of an individual is material to the  
1697 results.

1698 The term shall not include published compilations of the raw research data created by the  
1699 researcher or the researcher's published summaries, findings, analyses, or conclusions  
1700 related to the research study.

1701 (c) Confidential raw research data in a researcher's possession shall not be subject to  
1702 subpoena, otherwise discoverable, or deemed admissible as evidence in any judicial or

1703 administrative proceeding in any court except as otherwise provided in subsection (d) of  
1704 this Code section.

1705 (d) Confidential raw research data may be released, disclosed, subject to subpoena,  
1706 otherwise discoverable, or deemed admissible as evidence in a judicial or administrative  
1707 proceeding as follows:

1708 (1) Confidential raw research data related to a person may be disclosed to that person or  
1709 to another person on such person's behalf where the authority is otherwise specifically  
1710 provided by law;

1711 (2) Confidential raw research data related to a person may be disclosed to any person or  
1712 legal entity designated to receive that information when that designation is made in  
1713 writing by the research participant or where a designation is made in writing by a person  
1714 authorized by law to act for the participant;

1715 (3) Confidential raw research data related to a person may be disclosed to any agency or  
1716 department of the federal government, this state, or any political subdivision of this state  
1717 if such data are required by law or regulation to be reported to such agency or  
1718 department;

1719 (4) Confidential raw research data may be disclosed in any proceeding in which a party  
1720 was a participant, researcher, or sponsor in the underlying research study, including, but  
1721 not limited to, any judicial or administrative proceeding in which a research participant  
1722 places his or her care, treatment, injuries, insurance coverage, or benefit plan coverage  
1723 at issue; provided, however, that the identity of any research participant other than the  
1724 party to the judicial or administrative proceeding shall not be disclosed, unless the  
1725 researcher or sponsor is a defendant in such proceeding;

1726 (5) Confidential raw research data may be disclosed in any judicial or administrative  
1727 proceeding in which the researcher has either volunteered to testify or has been hired to  
1728 testify as an expert by one of the parties to such proceeding; and

1729 (6) In a criminal proceeding, the court shall order the production of confidential raw  
1730 research data if the data are relevant to any issue in the proceeding, impose appropriate  
1731 safeguards against unauthorized disclosure of the data, and admit confidential raw  
1732 research data into evidence if the data are material to the defense or prosecution.

1733 (e) Nothing in this Code section shall be construed to permit, require, or prohibit the  
1734 disclosure of confidential raw research data in any setting other than a judicial or  
1735 administrative proceeding that is governed by the requirements of this title.

1736 (f) Any disclosure of confidential raw research data authorized or required by this Code  
1737 section or any other law shall in no way destroy the confidential nature of that data except  
1738 for the purpose for which the authorized or required disclosure is made.

ARTICLE 2

1739

1740 24-12-10.1741 As used in this article, the term:

1742 (1) 'Confidential or privileged' means the protection afforded by law from unauthorized  
1743 disclosure, whether the protection is afforded by law as developed and applied by the  
1744 courts, by statute or lawful regulations, or by the requirements of the Constitutions of the  
1745 State of Georgia or the United States. The term 'confidential or privileged' also includes  
1746 protection afforded by law from compulsory process or testimony.

1747 (2) 'Disclosure' means the act of transmitting or communicating medical matter to a  
1748 person who would not otherwise have access thereto.

1749 (3) 'Health care facility' means any institution or place in which health care is rendered  
1750 to persons, which health care includes, but is not limited to, medical, psychiatric, acute,  
1751 intermediate, rehabilitative, and long-term care.

1752 (4) 'Laws requiring disclosure' means laws and statutes of the State of Georgia and of the  
1753 United States and lawful regulations issued by any department or agency of the State of  
1754 Georgia or of the United States which require the review, analysis, or use of medical  
1755 matter by persons not originally having authorized access thereto. The term 'laws  
1756 requiring disclosure' also includes any authorized practice of disclosure for purposes of  
1757 evaluating claims for reimbursement for charges or expenses under any public or private  
1758 reimbursement or insurance program.

1759 (5) 'Limited consent to disclosure' means proper authorization given by or on behalf of  
1760 a person entitled to protection from disclosure of medical matter and given for a specific  
1761 purpose related to such person's health or related to such person's application for  
1762 insurance or like benefits.

1763 (6) 'Medical matter' means information respecting the medical or psychiatric condition,  
1764 including without limitation the physical and the mental condition, of a natural person or  
1765 persons, however recorded, obtained, or communicated.

1766 (7) 'Nurse' means a person authorized by license issued under Chapter 26 of Title 43 as  
1767 a registered professional nurse or licensed practical nurse to practice nursing.

1768 (8) 'Physician' means any person lawfully licensed in this state to practice medicine and  
1769 surgery pursuant to Chapter 34 of Title 43.

1770 24-12-11.

1771 The disclosure of confidential or privileged medical matter constituting all or part of a  
1772 record kept by a health care facility, a nurse, or a physician, pursuant to laws requiring  
1773 disclosure or pursuant to limited consent to disclosure, shall not serve to destroy or in any

1774 way abridge the confidential or privileged character thereof, except for the purpose for  
 1775 which such disclosure is made.

1776 24-12-12.

1777 Persons to whom confidential or privileged medical matter is disclosed in the  
 1778 circumstances described in Code Section 24-12-11 shall utilize such matter only in  
 1779 connection with the purpose or purposes of such disclosure and thereafter shall keep such  
 1780 matter in confidence. However, nothing in this article shall prohibit the use of such matter  
 1781 where otherwise authorized by law.

1782 24-12-13.

1783 Any person, corporation, authority, or other legal entity acting in good faith shall be  
 1784 immune from liability for the transmission, receipt, or use of medical matter disclosed  
 1785 pursuant to laws requiring disclosure or pursuant to limited consent to disclosure.

1786 24-12-14.

1787 Nothing in this article shall be construed to prevent the customary and usual audit,  
 1788 discussion, and presentation of cases in connection with medical and public education.

1789 ARTICLE 3

1790 24-12-20.

1791 AIDS confidential information as defined in Code Section 31-22-9.1 and disclosed or  
 1792 discovered within the patient-physician relationship shall be confidential and shall not be  
 1793 disclosed except as otherwise provided in Code Section 24-12-21.

1794 24-12-21.

1795 (a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have  
 1796 the meaning provided for such term in Code Section 31-22-9.1.

1797 (b) Except as otherwise provided in this Code section:

1798 (1) No person or legal entity which receives AIDS confidential information pursuant to  
 1799 this Code section or which is responsible for recording, reporting, or maintaining AIDS  
 1800 confidential information shall:

1801 (A) Intentionally or knowingly disclose that information to another person or legal  
 1802 entity; or

1803 (B) Be compelled by subpoena, court order, or other judicial process to disclose that  
 1804 information to another person or legal entity; and

1805 (2) No person or legal entity which receives AIDS confidential information which that  
1806 person or legal entity knows was disclosed in violation of paragraph (1) of this subsection  
1807 shall:

1808 (A) Intentionally or knowingly disclose that information to another person or legal  
1809 entity; or

1810 (B) Be compelled by subpoena, court order, or other judicial process to disclose that  
1811 information to another person or legal entity.

1812 (c) AIDS confidential information shall be disclosed to the person identified by that  
1813 information or, if that person is a minor or incompetent person, to that person's parent or  
1814 legal guardian.

1815 (d) AIDS confidential information shall be disclosed to any person or legal entity  
1816 designated to receive that information when that designation is made in writing by the  
1817 person identified by that information or, if that person is a minor or incompetent person,  
1818 by that person's parent or legal guardian.

1819 (e) AIDS confidential information shall be disclosed to any agency or department of the  
1820 federal government, this state, or any political subdivision of this state if that information  
1821 is authorized or required by law to be reported to that agency or department.

1822 (f) The results of an HIV test shall be disclosed to the person, or that person's designated  
1823 representative, who ordered such tests of the body fluids or tissue of another person.

1824 (g) When the patient of a physician has been determined to be infected with HIV and that  
1825 patient's physician reasonably believes that the spouse or sexual partner or any child of the  
1826 patient, spouse, or sexual partner is a person at risk of being infected with HIV by that  
1827 patient, the physician may disclose to that spouse, sexual partner, or child that the patient  
1828 has been determined to be infected with HIV, after first attempting to notify the patient that  
1829 such disclosure is going to be made.

1830 (h)(1) An administrator of an institution licensed as a hospital by the Department of  
1831 Community Health or a physician having a patient who has been determined to be  
1832 infected with HIV may disclose to the Department of Human Resources:

1833 (A) The name and address of that patient;

1834 (B) That such patient has been determined to be infected with HIV; and

1835 (C) The name and address of any other person whom the disclosing physician or  
1836 administrator reasonably believes to be a person at risk of being infected with HIV by  
1837 that patient.

1838 (2) When mandatory and nonanonymous reporting of confirmed positive HIV tests to  
1839 the Department of Human Resources is determined by that department to be reasonably  
1840 necessary, that department shall establish by regulation a date on and after which such  
1841 reporting shall be required. On and after the date so established, each health care

1842 provider, health care facility, or any other person or legal entity which orders an HIV test  
1843 for another person shall report to the Department of Human Resources the name and  
1844 address of any person thereby determined to be infected with HIV. No such report shall  
1845 be made regarding any confirmed positive HIV test provided at any anonymous HIV test  
1846 site operated by or on behalf of the Department of Human Resources.

1847 (3) The Department of Human Resources may disclose that a person has been reported,  
1848 under paragraph (1) or (2) of this subsection, to have been determined to be infected with  
1849 HIV to the board of health of the county in which that person resides or is located if  
1850 reasonably necessary to protect the health and safety of that person or other persons who  
1851 may have come in contact with the body fluids of the HIV infected person. The  
1852 Department of Human Resources or county board of health to which information is  
1853 disclosed pursuant to this paragraph or paragraph (1) or (2) of this subsection:

1854 (A) May contact any person named in such disclosure as having been determined to  
1855 be an HIV infected person for the purpose of counseling that person and requesting  
1856 therefrom the name of any other person who may be a person at risk of being infected  
1857 with HIV by that HIV infected person;

1858 (B) May contact any other person reasonably believed to be a person at risk of being  
1859 infected with HIV by that HIV infected person for the purposes of disclosing that such  
1860 infected person has been determined to be infected with HIV and counseling such  
1861 person to submit to an HIV test; and

1862 (C) Shall contact and provide counseling to the spouse of any HIV infected person  
1863 whose name is thus disclosed if both persons are reasonably likely to have engaged in  
1864 sexual intercourse or any other act determined by the Department of Human Resources  
1865 likely to have resulted in the transmission of HIV between such persons within the  
1866 preceding seven years and if that spouse may be located and contacted without undue  
1867 difficulty.

1868 (i) Any health care provider authorized to order an HIV test may disclose AIDS  
1869 confidential information regarding a patient thereof if that disclosure is made to a health  
1870 care provider or health care facility which has provided, is providing, or will provide any  
1871 health care service to that patient and as a result of such provision of service that health  
1872 care provider or facility:

1873 (1) Has personnel or patients who may be persons at risk of being infected with HIV by  
1874 that patient, if that patient is an HIV infected person and such disclosure is reasonably  
1875 necessary to protect any such personnel or patients from that risk; or

1876 (2) Has a legitimate need for that information in order to provide that health care service  
1877 to that patient.

1878 (j) A health care provider or any other person or legal entity authorized but not required  
1879 to disclose AIDS confidential information pursuant to this Code section shall have no duty  
1880 to make such disclosure and shall not be liable to the patient or any other person or legal  
1881 entity for failing to make such disclosure. A health care provider or any other person or  
1882 legal entity which discloses information as authorized or required by this Code section or  
1883 as authorized or required by law or rules or regulations made pursuant thereto shall have  
1884 no civil or criminal liability therefor.

1885 (k) When any person or legal entity is authorized or required by this Code section or any  
1886 other law to disclose AIDS confidential information to a person at risk of being infected  
1887 with HIV and that person at risk is a minor or incompetent person, such disclosure may be  
1888 made to any parent or legal guardian of the minor or incompetent person, to the minor or  
1889 incompetent person, or to both the minor or incompetent person and any parent or legal  
1890 guardian thereof.

1891 (l) When an institutional care facility is the site at which a person is at risk of being  
1892 infected with HIV and as a result of that risk a disclosure of AIDS confidential information  
1893 to any person at risk at that site is authorized or required under this Code section or any  
1894 other law, such disclosure may be made to the person at risk or to that institutional care  
1895 facility's chief administrative or executive officer, or such officer's designee, in which case  
1896 that officer or designee shall be authorized to make such disclosure to the person at risk.

1897 (m) When a disclosure of AIDS confidential information is authorized or required by this  
1898 Code section to be made to a physician, health care provider, or legal entity, that disclosure  
1899 may be made to employees of that physician, health care provider, or legal entity who have  
1900 been designated thereby to receive such information on behalf thereof. Those designated  
1901 employees may thereafter disclose to and provide for the disclosure of that information  
1902 among such other employees of that physician, health care provider, or legal entity, but  
1903 such disclosures among those employees shall only be authorized when reasonably  
1904 necessary in the ordinary course of business to carry out the purposes for which that  
1905 disclosure is authorized or required to be made to that physician, health care provider, or  
1906 legal entity.

1907 (n) Any disclosure of AIDS confidential information authorized or required by this Code  
1908 section or any other law and any unauthorized disclosure of such information shall in no  
1909 way destroy the confidential nature of that information except for the purpose for which  
1910 the authorized or required disclosure is made.

1911 (o) Any person or legal entity which violates subsection (b) of this Code section shall be  
1912 guilty of a misdemeanor.

1913 (p) Nothing in this Code section or any other law shall be construed to authorize the  
1914 disclosure of AIDS confidential information if that disclosure is prohibited by federal law.

1915 or regulations promulgated thereunder, nor shall anything in this Code section or any other  
 1916 law be construed to prohibit the disclosure of information which would be AIDS  
 1917 confidential information except that such information does not permit the identification of  
 1918 any person.

1919 (q) A public safety agency or prosecuting attorney may obtain the results from an HIV test  
 1920 to which the person named in the request has submitted under Code Section 15-11-66.1,  
 1921 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be contained in a  
 1922 sealed record.

1923 (r) Any person or legal entity required by an order of a court to disclose AIDS confidential  
 1924 information in the custody or control of such person or legal entity shall disclose that  
 1925 information as required by that order.

1926 (s) AIDS confidential information shall be disclosed as medical information pursuant to  
 1927 Code Section 24-12-1 or pursuant to any other law which authorizes or requires the  
 1928 disclosure of medical information if:

1929 (1) The person identified by that information:

1930 (A) Has consented in writing to that disclosure; or

1931 (B) Has been notified of the request for disclosure of that information at least ten days  
 1932 prior to the time the disclosure is to be made and does not object to such disclosure  
 1933 prior to the time specified for that disclosure in that notice; or

1934 (2) A superior court in an in camera hearing finds by clear and convincing evidence a  
 1935 compelling need for the information which cannot be accommodated by other means. In  
 1936 assessing compelling need, the court shall weigh the public health, safety, or welfare  
 1937 needs or any other public or private need for the disclosure against the privacy interest  
 1938 of the person identified by the information and the public interest which may be disserved  
 1939 by disclosures which may deter voluntary HIV tests. If the court determines that  
 1940 disclosure of that information is authorized under this paragraph, the court shall order that  
 1941 disclosure and impose appropriate safeguards against any unauthorized disclosure. The  
 1942 records of that hearing otherwise shall be under seal.

1943 (t)(1) A superior court of this state may order a person or legal entity to disclose AIDS  
 1944 confidential information in its custody or control to:

1945 (A) A prosecutor in connection with a prosecution for the alleged commission of  
 1946 reckless conduct under subsection (c) of Code Section 16-5-60;

1947 (B) Any party in a civil proceeding; or

1948 (C) A public safety agency or the Department of Human Resources if that agency or  
 1949 department has an employee thereof who has, in the course of that employment, come  
 1950 in contact with the body fluids of the person identified by the AIDS confidential  
 1951 information sought in such a manner reasonably likely to cause that employee to

1952 become an HIV infected person and provided the disclosure is necessary for the health  
1953 and safety of that employee,  
1954 and, for purposes of this subsection, the term 'petitioner for disclosure' means any person  
1955 or legal entity specified in subparagraph (A), (B), or (C) of this paragraph.  
1956 (2) An order may be issued against a person or legal entity responsible for recording,  
1957 reporting, or maintaining AIDS confidential information to compel the disclosure of that  
1958 information if the petitioner for disclosure demonstrates by clear and convincing evidence  
1959 a compelling need for the information which cannot be accommodated by other means.  
1960 In assessing compelling need, the court shall weigh the public health, safety, or welfare  
1961 needs or any other public or private need for the disclosure against the privacy interest  
1962 of the person identified by the information and the public interest which may be disserved  
1963 by disclosures which may deter voluntary HIV tests.  
1964 (3) A petition seeking disclosure of AIDS confidential information under this subsection  
1965 shall substitute a pseudonym for the true name of the person concerning whom the  
1966 information is sought. The disclosure to the parties of that person's true name shall be  
1967 communicated confidentially, in documents not filed with the court.  
1968 (4) Before granting any order under this subsection, the court shall provide the person  
1969 concerning whom the information is sought with notice and a reasonable opportunity to  
1970 participate in the proceedings if that person is not already a party.  
1971 (5) Court proceedings as to disclosure of AIDS confidential information under this  
1972 subsection shall be conducted in camera unless the person concerning whom the  
1973 information is sought agrees to a hearing in open court.  
1974 (6) Upon the issuance of an order that a person or legal entity be required to disclose  
1975 AIDS confidential information regarding a person named in that order, that person or  
1976 entity so ordered shall disclose to the ordering court any such information which is in the  
1977 control or custody of that person or entity and which relates to the person named in the  
1978 order for the court to make an in camera inspection thereof. If the court determines from  
1979 that inspection that the person named in the order is an HIV infected person, the court  
1980 shall disclose to the petitioner for disclosure that determination and shall impose  
1981 appropriate safeguards against unauthorized disclosure which shall specify the persons  
1982 who may have access to the information, the purposes for which the information shall be  
1983 used, and appropriate prohibitions on future disclosure.  
1984 (7) The record of the proceedings under this subsection shall be sealed by the court.  
1985 (8) An order may not be issued under this subsection against the Department of Human  
1986 Resources, any county board of health, or any anonymous HIV test site operated by or  
1987 on behalf of that department.

1988 (u) A health care provider, health care facility, or other person or legal entity who, in  
 1989 violation of this Code section, unintentionally discloses AIDS confidential information,  
 1990 notwithstanding the maintenance of procedures thereby which are reasonably adopted to  
 1991 avoid risk of such disclosure, shall not be civilly or criminally liable, unless such disclosure  
 1992 was due to gross negligence or wanton and willful misconduct.

1993 (v) AIDS confidential information may be disclosed when that disclosure is otherwise  
 1994 authorized or required by Code Section 42-1-6, if AIDS or HIV infection is the  
 1995 communicable disease at issue, or when that disclosure is otherwise authorized or required  
 1996 by any law which specifically refers to 'AIDS confidential information,' 'HIV test results,'  
 1997 or any similar language indicating a legislative intent to disclose information specifically  
 1998 relating to AIDS or HIV.

1999 (w) A health care provider who has received AIDS confidential information regarding a  
 2000 patient from the patient's health care provider directly or indirectly under the provisions of  
 2001 subsection (i) of this Code section may disclose that information to a health care provider  
 2002 which has provided, is providing, or will provide any health care service to that patient and  
 2003 as a result of that provision of service that health care provider:

2004 (1) Has personnel or patients who may be persons at risk of being infected with HIV by  
 2005 that patient, if that patient is an HIV infected person and such disclosure is reasonably  
 2006 necessary to protect any such personnel or patients from that risk; or

2007 (2) Has a legitimate need for that information in order to provide that health care service  
 2008 to that patient.

2009 (x) Neither the Department of Human Resources nor any county board of health shall  
 2010 disclose AIDS confidential information contained in its records unless such disclosure is  
 2011 authorized or required by this Code section or any other law, except that such information  
 2012 in those records shall not be a public record and shall not be subject to disclosure through  
 2013 subpoena, court order, or other judicial process.

2014 (y) The protection against disclosure provided by Code Section 24-12-20 shall be waived  
 2015 and AIDS confidential information may be disclosed to the extent that the person identified  
 2016 by such information, his or her heirs, successors, assigns, or a beneficiary of such person,  
 2017 including, but not limited to, an executor, administrator, or personal representative of such  
 2018 person's estate:

2019 (1) Files a claim or claims other entitlements under any insurance policy or benefit plan  
 2020 or is involved in any civil proceeding regarding such claim;

2021 (2) Places such person's care and treatment, the nature and extent of his or her injuries,  
 2022 the extent of his or her damages, his or her medical condition, or the reasons for his or her  
 2023 death at issue in any judicial proceeding; or

2024 (3) Is involved in a dispute regarding coverage under any insurance policy or benefit  
2025 plan.

2026 (z) AIDS confidential information may be collected, used, and disclosed by an insurer in  
2027 accordance with the provisions of Chapter 39 of Title 33.

2028 (aa) In connection with any judicial proceeding in which AIDS confidential information  
2029 is disclosed as authorized or required by this Code section, the party to whom that  
2030 information is thereby disclosed may subpoena any person to authenticate such AIDS  
2031 confidential information, establish a chain of custody relating thereto, or otherwise testify  
2032 regarding that information, including, but not limited to, testifying regarding any  
2033 notifications to the patient regarding results of an HIV test. The provisions of this  
2034 subsection shall apply as to records, personnel, or both of the Department of Human  
2035 Resources or a county board of health notwithstanding Code Section 50-18-72, but only  
2036 as to test results obtained by a prosecutor under subsection (q) of this Code section and to  
2037 be used thereby in a prosecution for reckless conduct under subsection (c) of Code Section  
2038 16-5-60.

2039 (bb) AIDS confidential information may be disclosed as a part of any proceeding or  
2040 procedure authorized or required pursuant to Chapter 3, 4, or 7 of Title 37, regarding a  
2041 person who is alleged to be or who is mentally ill, mentally retarded, or alcoholic or drug  
2042 dependent, or as a part of any proceeding or procedure authorized or required pursuant to  
2043 Title 29, regarding the guardianship of a person or that person's estate, as follows:

2044 (1) Any person who files or transmits a petition or other document which discloses AIDS  
2045 confidential information in connection with any such proceeding or procedure shall  
2046 provide a cover page which contains only the type of proceeding or procedure, the court  
2047 in which the proceeding or procedure is or will be pending, and the words  
2048 'CONFIDENTIAL INFORMATION' without in any way otherwise disclosing thereon  
2049 the name of any individual or that such petition or other document specifically contains  
2050 AIDS confidential information;

2051 (2) AIDS confidential information shall only be disclosed pursuant to this subsection  
2052 after disclosure to and with the written consent of the person identified by that  
2053 information, or that person's parent or guardian if that person is a minor or has previously  
2054 been adjudicated as being incompetent, or by order of court obtained in accordance with  
2055 subparagraph (C) of paragraph (3) of this subsection;

2056 (3) If any person files or transmits a petition or other document in connection with any  
2057 such proceeding or procedure which discloses AIDS confidential information without  
2058 obtaining consent as provided in paragraph (2) of this subsection, the court receiving such  
2059 information shall either obtain written consent as set forth in that paragraph (2) for any  
2060 further use or disclosure of such information or:

2061 (A) Return such petition or other document to the person who filed or transmitted  
2062 same, with directions against further filing or transmittal of such information in  
2063 connection with such proceeding or procedure except in compliance with this  
2064 subsection;

2065 (B) Delete or expunge all references to such AIDS confidential information from the  
2066 particular petition or other document; or

2067 (C)(i) If the court determines there is a compelling need for such information in  
2068 connection with the particular proceeding or procedure, petition a superior court of  
2069 competent jurisdiction for permission to obtain or disclose that information. If the  
2070 person identified by the information is not yet represented by an attorney in the  
2071 proceeding or procedure in connection with which the information is sought, the  
2072 petitioning court shall appoint an attorney for such person. The petitioning court shall  
2073 have both that person and that person's attorney personally served with notice of the  
2074 petition and time and place of the superior court hearing thereon. Such hearing shall  
2075 not be held sooner than 72 hours after service, unless the information is to be used in  
2076 connection with an emergency guardianship proceeding under Code Section 29-4-14,  
2077 in which event the hearing shall not be held sooner than 48 hours after service.

2078 (ii) The superior court in which a petition is filed pursuant to division (i) of this  
2079 subparagraph shall hold an in camera hearing on such petition. The purpose of the  
2080 hearing shall be to determine whether there is clear and convincing evidence of a  
2081 compelling need for the AIDS confidential information sought in connection with the  
2082 particular proceeding or procedure which cannot be accommodated by other means.  
2083 In assessing compelling need, the superior court shall weigh the public health, safety,  
2084 or welfare needs or any other public or private need for the disclosure against the  
2085 privacy interest of the person identified by the information and the public interest  
2086 which may be disserved by disclosures which may deter voluntary HIV tests. If the  
2087 court determines that disclosure of that information is authorized under this  
2088 subparagraph, the court shall order that disclosure and impose appropriate safeguards  
2089 against any unauthorized disclosure. The records of that hearing otherwise shall be  
2090 under seal; and

2091 (4) The court having jurisdiction over such proceeding or procedure, when it becomes  
2092 apparent that AIDS confidential information will likely be or has been disclosed in  
2093 connection with such proceeding or procedure, shall take such measures as the court  
2094 determines appropriate to preserve the confidentiality of the disclosed information to the  
2095 maximum extent possible. Such measures shall include, without being limited to, closing  
2096 the proceeding or procedure to the public and sealing all or any part of the records of the  
2097 proceeding or procedure containing AIDS confidential information. The records of any

2098 appeals taken from any such proceeding or procedure shall also be sealed. Furthermore,  
 2099 the court may consult with and obtain the advice of medical experts or other counsel or  
 2100 advisers as to the relevance and materiality of such information in such proceedings or  
 2101 procedures, provided that the identity of the person identified by such information is not  
 2102 thereby revealed.

2103 ARTICLE 4

2104 24-12-30.

2105 (a) Circulation and similar records of a library which identify the user of library materials  
 2106 shall not be public records but shall be confidential and shall not be disclosed except:

2107 (1) To members of the library staff in the ordinary course of business;

2108 (2) Upon written consent of the user of the library materials or the user's parents or  
 2109 guardian if the user is a minor or ward; or

2110 (3) Upon appropriate court order or subpoena.

2111 (b) Any disclosure authorized by subsection (a) of this Code section or any unauthorized  
 2112 disclosure of materials made confidential by subsection (a) of this Code section shall not  
 2113 in any way destroy the confidential nature of that material, except for the purpose for which  
 2114 an authorized disclosure is made. A person disclosing material as authorized by subsection  
 2115 (a) of this Code section shall not be liable therefor.

2116 24-12-31.

2117 No veterinarian licensed under Chapter 50 of Title 43 shall be required to disclose any  
 2118 information concerning the veterinarian's care of an animal except on written authorization  
 2119 or other waiver by the veterinarian's client or on appropriate court order or subpoena. Any  
 2120 veterinarian releasing information under written authorization or other waiver by the client  
 2121 or under court order or subpoena shall not be liable to the client or any other person. The  
 2122 confidentiality provided by this Code section shall be waived to the extent that the  
 2123 veterinarian's client places the veterinarian's care and treatment of the animal or the nature  
 2124 and extent of injuries to the animal at issue in any judicial proceeding. As used in this  
 2125 Code section, the term 'client' means the owner of the animal; or if the owner of the animal  
 2126 is unknown, client means the person who presents the animal to the veterinarian for care  
 2127 and treatment.

CHAPTER 13ARTICLE 1

2130 24-13-1.

2131 A witness shall not be arrested on any civil process while attending any court to which he  
2132 or she is subpoenaed or otherwise required to attend as a witness or while going to or  
2133 returning from such court. An officer who holds such witness imprisoned after seeing his  
2134 or her subpoena or being satisfied of the fact that such person was a witness shall be liable  
2135 for false imprisonment.

2136 24-13-2.

2137 A witness in making a claim or proof of a claim for witness fees for attendance shall  
2138 indicate the date on which he or she attended and, in the event of a continuance, shall not  
2139 claim or receive witness fees for any day after the date to which the docket shows the  
2140 proceeding was continued nor for any day before the continuance was granted on which  
2141 he or she did not attend.

2142 24-13-3.

2143 (a) A witness shall not receive any witness fees for attendance on a subpoena if such  
2144 witness is absent from the proceeding, or if the proceeding is continued at any time due to  
2145 his or her absence, where such absence did not arise from providential cause.

2146 (b) No witness shall receive witness fees from both parties in the same proceeding; the  
2147 fees of a witness for both parties shall be apportioned equally between the parties unless  
2148 the costs are all taxed against one party.

2149 24-13-4.

2150 A witness who claims more than is due to such witness shall forfeit all witness fees and  
2151 shall pay to the injured party, in addition thereto, four times the amount so unjustly  
2152 claimed.

2153 24-13-5.

2154 When any person is served with a subpoena for the production of evidence or a notice to  
2155 produce, seeking books in his or her possession to be used as testimony on the trial of any  
2156 cause, if the person makes oath that he or she cannot produce the books required without  
2157 suffering a material injury in his or her business and also makes or causes to be made out  
2158 a full transcript from the books of all the accounts and dealings with the opposite party, has  
2159 the transcript examined and sworn to by an impartial witness, and produces the same in

2160 court, the witness shall be deemed to have complied with the notice to produce or subpoena  
2161 for the production of evidence.

2162 24-13-6.

2163 When the transcript provided for in Code Section 24-13-5 is produced in court, if the  
2164 adverse party is dissatisfied therewith and swears that he or she believes that the books  
2165 contain entries material to the adverse party which do not appear in the transcript, the court  
2166 shall grant him or her a commission directed to certain persons named by the parties and  
2167 approved by the court. The commission shall cause the person with possession of the  
2168 books to produce the books required with the person swearing that the books produced are  
2169 all that he or she has or had that answer to the description in the subpoena or notice to  
2170 produce. The commission shall examine the books and transmit to the court a full and fair  
2171 statement of the accounts and entries between the parties under their hand. When received  
2172 by the court, the statement of the commission shall be deemed a compliance with the notice  
2173 to produce or subpoena for the production of evidence.

2174 24-13-7.

2175 Parties interested and participating in the trial of all cases tried in the courts are authorized  
2176 and empowered, on the order of the court trying the case, to withdraw from the court and  
2177 record of the case all original deeds, maps, blueprints, notes, papers, and documents  
2178 belonging to the parties and which are introduced in evidence on the trial, on substituting  
2179 therefor, when required by the court, duplicates thereof, verified as such by the parties or  
2180 their agents, representatives, or attorneys. However, if any such deeds, maps, blueprints,  
2181 notes, papers, or documents shall be attacked by any party to the case as forgeries, or as not  
2182 being genuine originals, it shall be in the discretion of the court to require the original  
2183 deeds, maps, blueprints, notes, papers, or documents so attacked to remain on file in the  
2184 court as a part of the record in the case.

2185 ARTICLE 2

2186 24-13-20.

2187 This article shall apply to all civil proceedings and, insofar as consistent with the  
2188 Constitution, to all criminal proceedings.

2189 24-13-21.

2190 (a) As used in this Code section, the term 'subpoena' includes a witness subpoena and a  
2191 subpoena for the production of evidence.

2192 (b) A subpoena shall state the name of the court, the name of the clerk, and the title of the  
 2193 proceeding and shall command each person to whom it is directed to attend and give  
 2194 testimony or produce evidence at a time and place specified by the subpoena.

2195 (c) The clerk of court shall make subpoenas in blank available on demand by electronic  
 2196 or other means to parties or their counsel or to the grand jury.

2197 (d) An attorney who is counsel of record in a proceeding may issue and sign a subpoena  
 2198 obtained by electronic or other means from the clerk of court as an officer of a court for  
 2199 any deposition, hearing, or trial held in conjunction with such proceeding.

2200 (e) A district attorney may issue, and upon the request of the grand jury shall issue, a  
 2201 subpoena in grand jury proceedings.

2202 (f) A subpoena shall be completed prior to being served.

2203 (g) Subpoenas are enforceable as provided in Code Section 24-13-26.

2204 (h) If an individual misuses a subpoena, he or she shall be subject to punishment for  
 2205 contempt of court and shall be punished by a fine of not more than \$300.00 or not more  
 2206 than 20 days imprisonment, or both.

2207 24-13-22.

2208 At the request of any party, subpoenas for attendance at a hearing or trial shall be issued  
 2209 under the authority of the clerk of the court in which the hearing or trial is held. A  
 2210 subpoena requiring the attendance of a witness at a hearing or trial may be served at any  
 2211 place within this state.

2212 24-13-23.

2213 (a) A subpoena may also command the person to whom it is directed to produce the  
 2214 evidence designated therein.

2215 (b) The court, upon written motion made promptly and in any event at or before the time  
 2216 specified in the subpoena for compliance therewith, may:

2217 (1) Quash or modify the subpoena if it is unreasonable and oppressive; or

2218 (2) Condition denial of the motion upon the advancement by the person in whose behalf  
 2219 the subpoena is issued of the reasonable cost of producing the evidence.

2220 24-13-24.

2221 A subpoena may be served by any sheriff, by his or her deputy, or by any other person not  
 2222 less than 18 years of age. Proof may be shown by return or certificate endorsed on a copy  
 2223 of the subpoena. Subpoenas may also be served by registered or certified mail or statutory  
 2224 overnight delivery, and the return receipt shall constitute prima-facie proof of service.  
 2225 Service upon a party may be made by serving his or her counsel of record.

2226 24-13-25.

2227 Except as provided in Code Section 24-13-28, the witness fee shall be \$25.00 per diem, and  
2228 execution shall be issued by the clerk upon affidavit of the witness to enforce payment  
2229 thereof. The payment of witness fees shall not be demanded as a condition precedent to  
2230 attendance; but, when a witness resides outside the county where the testimony is to be  
2231 given, service of the subpoena, to be valid, shall be accompanied by tender of the witness  
2232 fee for one day's attendance plus mileage of 45¢ per mile for traveling expenses for going  
2233 from and returning to his or her place of residence by the nearest practical route. Tender  
2234 of witness fees and mileage may be made by United States currency, postal money order,  
2235 cashier's check, certified check, or the check of an attorney or law firm. When the  
2236 subpoena is issued on behalf of this state, or an officer, agency, or political subdivision  
2237 thereof, or an accused in a criminal proceeding, witness fees and mileage need not be  
2238 tendered.

2239 24-13-26.

2240 (a) Subpoenas may be enforced by attachment for contempt and by a fine of not more than  
2241 \$300.00 or not more than 20 days imprisonment, or both. In all proceedings under this  
2242 Code section, the court shall consider whether under the circumstances of each proceeding  
2243 the subpoena was served within a reasonable time, but in any event not less than 24 hours  
2244 prior to the time that appearance thereunder was required.

2245 (b) The court may also in appropriate proceedings grant continuance of the proceeding.  
2246 Where subpoenas were issued in blank, no continuance shall be granted because of failure  
2247 to respond thereto when the party obtaining such subpoenas fails to present to the clerk the  
2248 name and address of the witness so subpoenaed at least six hours before appearance is  
2249 required.

2250 (c) When evidence is unsuccessfully sought, secondary evidence thereof shall be  
2251 admissible.

2252 24-13-27.

2253 Where a party desires to compel production of evidence in the possession, custody, or  
2254 control of another party, in lieu of serving a subpoena under this article, the party desiring  
2255 the production may serve a notice to produce upon counsel for the other party. Service  
2256 may be perfected in accordance with Code Section 24-13-24, but no witness fees or  
2257 mileage shall be allowed therefor. Such notices may be enforced in the manner prescribed  
2258 by Code Section 24-13-26, and Code Section 24-13-23 shall also apply to such notices.  
2259 The notice shall be in writing, signed by the party seeking production of the evidence, or  
2260 the party's attorney, and shall be directed to the opposite party or his or her attorney.

2261 24-13-28.

2262 (a) As used in this Code section, the term:

2263 (1) 'Director' means the appropriate chief of police, sheriff, director of public safety of  
2264 a college or university, local fire chief, director of the Georgia Bureau of Investigation,  
2265 the commanding officer of the Georgia State Patrol, the commissioner of natural  
2266 resources, the superintendent of a correctional institution, or the state fire marshal.

2267 (2) 'Law enforcement officer' means any member of a municipal or county police force,  
2268 any deputy sheriff, any campus policeman as defined in Code Section 20-8-1, any  
2269 member of a local fire department, any member of the Georgia State Patrol or Georgia  
2270 Bureau of Investigation, any correctional officer, any person employed by the  
2271 Department of Natural Resources as a law enforcement officer, or any arson investigator  
2272 of the state fire marshal's office.

2273 (3) 'Regular duty hours' means the daily shift of duty to which a law enforcement officer  
2274 is assigned and shall not include paid or unpaid vacation, paid or unpaid sick leave, paid  
2275 or unpaid holiday leave, or any other paid or unpaid leave status established pursuant to  
2276 the personnel regulations or scheduling practices of the employing agency.

2277 (b) Any law enforcement officer who shall be required by subpoena to attend any superior  
2278 court, other courts having jurisdiction to enforce the penal laws of this state, municipal  
2279 court having jurisdiction to enforce the penal laws of this state as provided by Code Section  
2280 40-13-21, juvenile court, grand jury, hearing or inquest held or called by a coroner, or  
2281 magistrate court involving any criminal matter, as a witness on behalf of the state during  
2282 any hours except the regular duty hours to which the officer is assigned, shall be paid for  
2283 such attendance at a fixed rate to be established by the governing authority, but not less  
2284 than \$25.00 per diem. The claim for the witness fees shall be endorsed on the subpoena  
2285 showing the dates of attendance and stating that attendance was required during the hours  
2286 other than the regular duty hours to which the claimant was assigned. The claimant shall  
2287 verify this statement. The dates of attendance shall be certified by the judge or the  
2288 prosecuting attorney of the court attended. The director or his or her designee shall certify  
2289 that the claimant has not received any overtime pay for his or her attendance and that his  
2290 or her attendance was required during hours other than regular duty hours. The amount due  
2291 shall be paid by the governing body authorized to dispense public funds for the operation  
2292 of the court. However, no such law enforcement officer shall claim or receive more than  
2293 one witness fee per day for attendance in any court or before the grand jury regardless of  
2294 the number of subpoenas which the law enforcement officer may have received requiring  
2295 such officer to appear in such court or before the grand jury on any one day.

2296 (c)(1) Except as provided in paragraph (2) of this subsection, any law enforcement  
2297 officer who shall be required by subpoena to attend any court of this state with respect

2298 to any civil proceeding, as a witness concerning any matter relative to the law  
 2299 enforcement duties of such law enforcement officer during any hours except the regular  
 2300 duty hours to which the law enforcement officer is assigned, shall be paid for such  
 2301 attendance at a fixed rate to be established by the governing authority, but not less than  
 2302 \$25.00 per diem. Any such law enforcement officer shall also be entitled to the mileage  
 2303 allowance provided in Code Section 24-13-25 when such law enforcement officer resides  
 2304 outside the county where the testimony is to be given. The claim for the witness fees  
 2305 shall be endorsed on the subpoena showing the dates of attendance and stating that  
 2306 attendance was required during the hours other than the regular duty hours to which the  
 2307 claimant was assigned. The claimant shall verify such statement. The dates of  
 2308 attendance shall be certified by the party obtaining the subpoena. The director or his or  
 2309 her designee shall certify that the claimant has not received any overtime pay for the law  
 2310 enforcement officer's attendance and that such law enforcement officer's attendance was  
 2311 required during hours other than regular duty hours.

2312 (2) Any law enforcement officer covered by paragraph (1) of this subsection who is  
 2313 required by subpoena to attend any court with respect to any civil proceeding, as a  
 2314 witness concerning any matter which is not related to the duties of such law enforcement  
 2315 officer, shall be compensated as provided in Code Section 24-13-25.

2316 (d) The fee specified by subsections (b) and (c) of this Code section shall not be paid if the  
 2317 law enforcement officer receives any overtime pay for time spent attending such court  
 2318 pursuant to the subpoena.

2319 24-13-29.

2320 No member of the General Assembly of Georgia shall be compelled to attend and give  
 2321 testimony at any hearing or trial or to produce evidence while the General Assembly is in  
 2322 regular or extraordinary session.

### 2323 ARTICLE 3

2324 24-13-60.

2325 (a) When a prisoner confined in any state prison, county correctional institution, or other  
 2326 penal institution under the jurisdiction of the Board of Corrections, other than a prisoner  
 2327 under a death sentence, is needed as a witness in any judicial proceeding in any court of  
 2328 record in this state or when it is desired that such person stand trial on an indictment or  
 2329 accusation charging the prisoner with commission of a felony or misdemeanor, the judge  
 2330 of the court wherein the proceeding is pending shall be authorized to and shall issue an ex  
 2331 parte order, directed to the commissioner of corrections, requiring the prisoner's delivery

2332 to the sheriff of the county where the prisoner is desired as a witness or accused. The  
2333 sheriff or his or her deputies shall take custody of the prisoner on the date named in the  
2334 order, safely keep the prisoner pending the proceeding, and return him or her to the original  
2335 place of detention after the prisoner's discharge by the trial judge.

2336 (b) If the prisoner was desired as a witness by this state in a criminal proceeding or if the  
2337 prisoner's release to the sheriff was for the purpose of standing trial on criminal charges,  
2338 the county wherein the proceeding was pending shall pay all expenses of transportation and  
2339 keeping, including per diem and mileage of the sheriff, jail fees, and any other proper  
2340 expense approved by the trial judge.

2341 (c) If the prisoner was desired as a witness by the accused in a criminal proceeding or by  
2342 either party to a civil proceeding, the costs and expenses referred to in subsection (b) of this  
2343 Code section shall be borne by the party requesting the prisoner as a witness. The court  
2344 shall require a deposit of money sufficient to defray same, except where the judge, after  
2345 examining into the matter, determines that the prisoner's presence is required by the  
2346 interests of justice and that the party requesting it is financially unable to make the deposit,  
2347 in which case the expenses shall be taxed as costs of court.

2348 (d) If a prisoner under a death sentence is needed as a witness for either the prosecution  
2349 or the defense in any felony case, the requesting party may interview the proposed witness.  
2350 Following such interview, the requesting party may move for a writ of habeas corpus ad  
2351 testificandum. Such motion shall be accompanied by a proffer of the testimony of the  
2352 proposed witness. The requesting party shall make such motion and proffer as soon as  
2353 possible but shall not make such motion later than 20 days prior to the date of the trial.  
2354 Nothing in this Code section shall limit the right of a party from presenting a material  
2355 witness at a hearing or trial and to have compulsory process for that purpose.

2356 24-13-61.

2357 Any judge of the superior court may issue an order to any officer having a lawfully  
2358 imprisoned person in his or her custody, requiring the production of such person before the  
2359 court for the purpose of giving evidence in any criminal cause pending therein, without any  
2360 formal application or writ of habeas corpus ad testificandum for that purpose.

2361 24-13-62.

2362 The writ of habeas corpus ad testificandum may be issued by the superior court to cause  
2363 the production in court of any witness under legal imprisonment.

2364

ARTICLE 42365 24-13-90.

2366 This article shall be known and may be cited as "The Uniform Act to Secure the Attendance  
2367 of Witnesses from Without the State."

2368 24-13-91.2369 As used in this article, the term:

2370 (1) 'Penal institution' means a jail, prison, penitentiary, house of correction, or other  
2371 place of penal detention.

2372 (2) 'State' means any state or territory of the United States and the District of Columbia.

2373 (3) 'Summons' means a subpoena, order, or other notice requiring the appearance of a  
2374 witness.

2375 (4) 'Witness' means a person whose testimony is desired in any proceeding or  
2376 investigation by a grand jury or in a criminal prosecution or proceeding held by the  
2377 prosecution or the defense, including a person who is confined in a penal institution in  
2378 any state.

2379 24-13-92.

2380 (a) If a judge of a court of record in any state which by its laws has made provision for  
2381 commanding persons within that state to attend and testify in this state certifies under the  
2382 seal of such court that there is a criminal prosecution pending in such court or that a grand  
2383 jury investigation has commenced or is about to commence, that a person within this state  
2384 is a material witness in such prosecution or grand jury investigation, and that the witness's  
2385 presence will be required for a specified number of days, upon presentation of such  
2386 certificate to any judge of a court of record in the county in which the person is found, such  
2387 judge shall fix a time and place for a hearing and shall make an order directing the witness  
2388 to appear at a time and place certain for the hearing. The witness shall at all times be  
2389 entitled to counsel.

2390 (b) If at a hearing the judge determines that the witness is material and necessary, that it  
2391 will not cause undue hardship to the witness to be compelled to attend and testify in the  
2392 prosecution or a grand jury investigation in the other state, and the laws of the state in  
2393 which the prosecution is pending or grand jury investigation has commenced or is about  
2394 to commence will give to such witness protection from arrest and the service of civil and  
2395 criminal process, the judge shall issue a summons, with a copy of the certificate attached,  
2396 directing the witness to attend and testify in the court where the prosecution is pending or  
2397 where a grand jury investigation has commenced or is about to commence at a time and

2398 place specified in the summons. In any such hearing, the certificate shall be prima-facie  
2399 evidence of all the facts stated therein.

2400 (c) If such certificate recommends that the witness be taken into immediate custody and  
2401 delivered to an officer of the requesting state to assure the witness's attendance in the  
2402 requesting state, such judge may, in lieu of notification of the hearing, direct that the  
2403 witness be forthwith brought before him or her for the hearing; and the judge at the hearing  
2404 being satisfied of the desirability of such custody and delivery, for which determination the  
2405 certificate shall be prima-facie proof of such desirability, may, in lieu of issuing subpoena  
2406 or summons, order that the witness be forthwith taken into custody and delivered to an  
2407 officer of the requesting state.

2408 (d) If the witness, who is summoned as above provided, after being paid or tendered by  
2409 some properly authorized person the sum of 45¢ a mile for each mile by the ordinarily  
2410 traveled route to and from the court where the prosecution is pending and \$25.00 for each  
2411 day that the witness is required to travel and attend as a witness, fails without good cause  
2412 to attend and testify as directed in the summons, the witness shall be punished in the  
2413 manner provided for in Code Section 24-13-26.

2414 24-13-93.

2415 (a) A judge of a state court of record in another state which by its laws has made provision  
2416 for commanding persons confined in penal institutions within that state to attend and testify  
2417 in this state may certify that there is a criminal proceeding or investigation by a grand jury  
2418 or a criminal proceeding pending in the court, that a person who is confined in a penal  
2419 institution in this state is a material witness in the proceeding or investigation, and that the  
2420 witness's presence will be required during a specified time. Upon presentation of the  
2421 certificate to any judge having jurisdiction over the person confined and upon notice to the  
2422 Attorney General, the judge in this state shall fix a time and place for a hearing and shall  
2423 make an order directed to the person having custody of the prisoner requiring that the  
2424 prisoner be produced before him or her at the hearing.

2425 (b) If at the hearing the judge determines that the witness is material and necessary, that  
2426 the witness attending and testifying are not adverse to the interest of this state or to the  
2427 health and legal rights of the witness, that the laws of the state in which the witness is  
2428 required to testify will give the witness protection from arrest and the service of civil and  
2429 criminal process because of any act committed prior to the witness's arrival in the state  
2430 under the order, and that as a practical matter the possibility is negligible that the witness  
2431 may be subject to arrest or to the service of civil or criminal process in any state through  
2432 which the witness will be required to pass, the judge shall issue an order, with a copy of the  
2433 certificate attached, directing the witness to attend and testify, directing the person having

2434 custody of the witness to produce the witness in the court where the criminal proceeding  
2435 is pending or where the grand jury investigation is pending at a time and place specified  
2436 in the order, and prescribing such conditions as the judge shall determine. The judge, in  
2437 lieu of directing the person having custody of the witness to produce the witness in the  
2438 requesting jurisdiction's court, may direct and require in the court's order that the requesting  
2439 jurisdiction shall come to the Georgia penal institution in which the witness is confined to  
2440 accept custody of the witness for physical transfer to the requesting jurisdiction; that the  
2441 requesting jurisdiction shall provide proper safeguards on the witness's custody while in  
2442 transit; that the requesting jurisdiction shall be liable for and shall pay all expenses incurred  
2443 in producing and returning the witness, including, but not limited to, food, lodging,  
2444 clothing, and medical care; and that the requesting jurisdiction shall promptly deliver the  
2445 witness back to the same or another Georgia penal institution as specified by the  
2446 Department of Corrections at the conclusion of his or her testimony.

2447 (c) The order to the witness and to the person having custody of the witness shall provide  
2448 for the return of the witness at the conclusion of his or her testimony, proper safeguards on  
2449 his or her custody, and proper financial reimbursement or prepayment by the requesting  
2450 jurisdiction of all expenses incurred in the production and return of the witness and may  
2451 prescribe such other conditions as the judge thinks proper or necessary. If the judge directs  
2452 and requires the requesting jurisdiction to accept custody of the witness at the Georgia  
2453 penal institution in which the witness is confined and to deliver the witness back to the  
2454 same or another Georgia penal institution at the conclusion of the witness's testimony, no  
2455 prepayment of expenses shall be necessary. The order shall not become effective until the  
2456 judge of the state requesting the witness enters an order directing compliance with the  
2457 conditions prescribed.

2458 (d) This Code section shall not apply to any person in this state confined as insane or  
2459 mentally ill or under sentence of death.

2460 24-13-94.

2461 (a) If a person in any state which by its laws has made provision for commanding persons  
2462 within its borders to attend and testify in criminal prosecutions or grand jury investigations  
2463 commenced or about to commence in this state is a material witness in a prosecution  
2464 pending in a court of record in this state or in a grand jury investigation which has  
2465 commenced or is about to commence a judge of such court may issue a certificate under  
2466 the seal of the court stating these facts and specifying the number of days the witness will  
2467 be required. The certificate may include a recommendation that the witness be taken into  
2468 immediate custody and delivered to an officer of this state to assure attendance in this state.

2469 This certificate shall be presented to a judge of a court of record in the county in which the  
2470 witness is found.

2471 (b) If the witness is summoned to attend and testify in this state, the witness shall be  
2472 tendered the sum of 45¢ a mile for each mile by the ordinarily traveled route to and from  
2473 the court where the prosecution is pending and \$25.00 for each day that the witness is  
2474 required to travel and attend as a witness. A witness who has appeared in accordance with  
2475 the provisions of the summons shall not be required to remain within this state for a longer  
2476 period of time than the period mentioned in the certificate, unless otherwise ordered by the  
2477 court. If such witness, after coming into this state, fails without good cause to attend and  
2478 testify as directed in the summons, the witness shall be punished in the manner provided  
2479 for in Code Section 24-13-26.

2480 24-13-95.

2481 (a) If a person confined in a penal institution in any other state is a material witness in a  
2482 criminal proceeding pending in a court of record or in a grand jury investigation in this  
2483 state, a judge of the court may certify that there is a criminal proceeding or investigation  
2484 by a grand jury or a criminal proceeding pending in the court, that a person who is confined  
2485 in a penal institution in the other state is a material witness in the proceeding or  
2486 investigation, and that the witness's presence will be required during a specified time. The  
2487 certificate shall be presented to a judge of a court of record in the other state having  
2488 jurisdiction over the confined prisoner, and a notice shall be given to the attorney general  
2489 of the state in which the prisoner is confined.

2490 (b) The judge of the court in this state may enter an order directing compliance with the  
2491 terms and conditions prescribed by the judge of the state in which the witness is confined.

2492 24-13-96.

2493 (a) If a person comes into this state in obedience to a summons directing him or her to  
2494 attend and testify in this state, such person shall not while in this state pursuant to such  
2495 summons be subject to arrest or the service of process, civil or criminal, in connection with  
2496 matters which arose before such person's entrance into this state under the summons.

2497 (b) If a person passes through this state while going to another state in obedience to a  
2498 summons to attend and testify in that state or while returning therefrom, he or she shall not  
2499 while so passing through this state be subject to arrest or the service of process, civil or  
2500 criminal, in connection with matters which arose before such person's entrance into this  
2501 state under the summons.

2502 24-13-97.

2503 This article shall be interpreted and construed so as to effectuate its general purpose to  
 2504 make uniform the laws of the states which enact it and shall be applicable only to such  
 2505 states as shall enact reciprocal powers to this state relative to the matter of securing  
 2506 attendance of witnesses as provided in this article.

2507 ARTICLE 5

2508 24-13-110.

2509 This article shall be known and may be cited as the 'Uniform Foreign Depositions Act.'

2510 24-13-111.

2511 Whenever any mandate, writ, or commission is issued out of any court of record in any  
 2512 other state, territory, district, or foreign jurisdiction, or whenever upon notice or agreement  
 2513 such court of record is required to take the testimony of a witness in this state, such witness  
 2514 may be compelled to appear and testify in the same manner and by the same process and  
 2515 proceeding as may be employed for the purpose of taking testimony in proceedings  
 2516 pending in this state.

2517 24-13-112.

2518 This article shall be interpreted and construed so as to effectuate its general purposes to  
 2519 make uniform the laws of those states which enact it.

2520 ARTICLE 6

2521 24-13-130.

2522 (a)(1) At any time after an accused has been charged with an offense against the laws of  
 2523 this state or an ordinance of any political subdivision or authority thereof, upon motion  
 2524 of the state or the accused, the court having jurisdiction to try the offense charged may,  
 2525 after notice to the parties, order that the testimony of a prospective material witness of a  
 2526 party be taken by deposition and that any designated evidence not privileged be produced  
 2527 at the same time and place.

2528 (2) At any time after an accused has been charged with an offense of child molestation,  
 2529 aggravated child molestation, or physical or sexual abuse of a child, upon motion of the  
 2530 state or the accused, the court having jurisdiction to try the offense charged may, after  
 2531 notice to the parties, order that the testimony of any physician whose testimony is

2532 relevant to such charge be taken by deposition and that any designated evidence not  
2533 privileged be produced at the same time and place.

2534 (b) The court shall not order the taking of the witness's testimony, except as provided in  
2535 paragraph (2) of subsection (a) of this Code section, unless it appears to the satisfaction of  
2536 the court that the testimony of the witness is material to the proceeding and the witness:

2537 (1) Is in imminent danger of death;

2538 (2) Has been threatened with death or great bodily harm because of the witness's status  
2539 as a potential witness in a criminal trial or proceeding;

2540 (3) Is about to leave this state and there are reasonable grounds to believe that such  
2541 witness will be unable to attend the trial;

2542 (4) Is so sick or infirm as to afford reasonable grounds to believe that such witness will  
2543 be unable to attend the trial; or

2544 (5) Is being detained as a material witness and there are reasonable grounds to believe  
2545 that the witness will flee if released from detention.

2546 (c) A motion to take a deposition of a material witness, or a physician as provided in  
2547 paragraph (2) of subsection (a) of this Code section, shall be verified and shall state:

2548 (1) The nature of the offense charged;

2549 (2) The status of the criminal proceedings;

2550 (3) The name of the witness and an address in Georgia where the witness may be  
2551 contacted;

2552 (4) That the testimony of the witness is material to the proceeding or that the witness is  
2553 a physician as provided in paragraph (2) of subsection (a) of this Code section; and

2554 (5) The basis for taking the deposition as provided in subsection (b) of this Code section.

2555 (d) A motion to take a deposition shall be filed in the court having jurisdiction to try the  
2556 accused for the offense charged; provided, however, that if the accused is charged with  
2557 multiple offenses, only the court having jurisdiction to try the most serious charge against  
2558 the accused shall have jurisdiction to hear and decide the motion to take a deposition.

2559 (e) The party moving the court for an order pursuant to this Code section shall give not  
2560 less than one day's notice of the hearing to the opposite party. A copy of the motion shall  
2561 be sent to the opposing party or his or her counsel by any means which will reasonably  
2562 ensure timely delivery, including transmission by facsimile or by digital or electronic  
2563 means. A copy of the notice shall be attached to the motion and filed with the clerk of  
2564 court.

2565 (f) If the court is satisfied that the examination of the witness is authorized by law and  
2566 necessary, the court shall enter an order setting a time period of not more than 30 days  
2567 during which the deposition shall be taken.

2568 (g) On motion of either party, the court may designate a judge who shall be available to  
2569 rule on any objections to the interrogation of the witness or before whom the deposition  
2570 shall be taken. The judge so designated may be a judge of any court of this state who is  
2571 otherwise qualified to preside over the trial of criminal proceedings in the court having  
2572 jurisdiction over the offense charged.

2573 24-13-131.

2574 (a) The party at whose instance a deposition is to be taken shall give to every party  
2575 reasonable written notice of the time and place for taking the deposition. The notice shall  
2576 state the name and address of each person to be examined.

2577 (b) On motion of a party upon whom the notice is served, the court for cause shown may  
2578 extend or shorten the time or change the place for taking the deposition.

2579 (c) The officer having custody of an accused shall be notified of the time and place set for  
2580 the examination and shall, unless the accused waives in writing the right to be present,  
2581 produce the accused at the examination and keep the accused in the presence of the witness  
2582 during the examination unless, after being warned by the judge that disruptive conduct will  
2583 cause the accused's removal from the place where the deposition is being taken, the accused  
2584 persists in conduct which would justify exclusion from that place.

2585 (d) An accused not in custody shall have the right to be present at the examination; but  
2586 failure of the accused to appear, absent good cause shown, after notice and tender of  
2587 expenses, shall constitute a waiver of that right and of any objection to the taking and use  
2588 of the deposition based upon that right.

2589 (e) Notwithstanding the provisions of subsections (c) and (d) of this Code section, if the  
2590 witness is a child, the court may order that the deposition be taken in accordance with Code  
2591 Section 17-8-55.

2592 24-13-132.

2593 (a) If an accused is financially unable to employ counsel, the court shall appoint counsel  
2594 as provided in Chapter 12 of Title 17, unless the accused elects to proceed without counsel.

2595 (b) Whenever a deposition is taken at the instance of the state, the cost of any such  
2596 deposition shall be paid by the state by the Prosecuting Attorneys' Council of the State of  
2597 Georgia out of such funds as may be appropriated for the operations of the district  
2598 attorneys.

2599 (c) Depositions taken at the instance of an accused shall be paid for by the accused;  
2600 provided, however, that, whenever a deposition is taken at the instance of an accused who  
2601 is eligible for the appointment of counsel as provided in Chapter 12 of Title 17, the court  
2602 shall direct that the reasonable expenses for the taking of the deposition and of travel and

2603 subsistence of the accused and the accused's attorney for attendance at the examination, not  
2604 to exceed the limits established pursuant to Article 2 of Chapter 7 of Title 45, be paid for  
2605 out of the fine and forfeiture fund of the county where venue is laid.

2606 24-13-133.

2607 Except as provided in Code Section 24-13-137, a deposition shall be taken and filed in the  
2608 manner provided in civil proceedings, provided that (1) in no event shall a deposition be  
2609 taken of an accused party without his or her consent and (2) the scope of examination and  
2610 cross-examination shall be such as would be allowed in the trial itself. On request or  
2611 waiver by the accused, the court may direct that a deposition be taken on written  
2612 interrogatories in the manner provided in civil proceedings. Such request shall constitute  
2613 a waiver by the accused of any objection to the taking and use of the deposition based upon  
2614 its being so taken. If a judge has been designated to rule on objections or to preside over  
2615 the deposition, objections to interrogation of the witness shall be made to and ruled on by  
2616 such judge in the same manner as at the trial of a criminal proceeding.

2617 24-13-134.

2618 The state or the accused shall make available to each other, for examination and use at the  
2619 taking of a deposition pursuant to this article, any statement of the witness being deposed  
2620 which is in the possession of the state or the accused and which would be required to be  
2621 made available if the witness were testifying at the trial.

2622 24-13-135.

2623 At the trial or upon any hearing, a part or all of a deposition, so far as otherwise admissible  
2624 under the rules of evidence, may be used if the witness is unavailable. Any deposition may  
2625 also be used by any party for the purpose of contradicting or impeaching the testimony of  
2626 the deponent as a witness. If only a part of a deposition is offered in evidence by a party,  
2627 an adverse party may require the offering of all of it which is relevant to the part offered,  
2628 and any party may offer other parts. A witness is not unavailable if the exemption, refusal  
2629 to testify, claim of lack of memory, inability, or absence of such witness is due to the  
2630 procurement or wrongdoing of the party offering the deposition at the hearing or trial for  
2631 the purpose of preventing the witness from attending or testifying.

2632 24-13-136.

2633 Objections to receiving in evidence a deposition or part thereof may be made as provided  
2634 in civil proceedings.

2635 24-13-137.

2636 (a) Any party shall have the right to require that the deposition be recorded and preserved  
2637 by the use of audio-visual equipment in addition to a stenographic record. The audio-visual  
2638 recording shall be transmitted to the clerk of the court which ordered the deposition and  
2639 shall be made available for viewing and copying only to the prosecuting attorney and  
2640 accused's attorney prior to trial. An audio-visual recording made pursuant to this Code  
2641 section shall not be available for inspection or copying by the public until such audio-visual  
2642 recording has been admitted into evidence during a trial or hearing in the case in which  
2643 such deposition is made.

2644 (b) An audio-visual recording made pursuant to this Code section may be admissible at a  
2645 trial or hearing as an alternative to the stenographic record of the deposition.

2646 (c) A stenographic record of the deposition contemplated in this Code section shall be  
2647 made pursuant to Code Section 9-11-28.

2648 24-13-138.

2649 Nothing in this article shall preclude the taking of a deposition, orally or upon written  
2650 questions, or the use of a deposition by agreement of the parties with the consent of the  
2651 court.

2652 24-13-139.

2653 It is the intent of the General Assembly that depositions shall be taken in criminal  
2654 proceedings only in exceptional circumstances when it is in the interests of justice that the  
2655 testimony of a prospective witness be taken and preserved for use at trial. If the court finds  
2656 that any party or counsel for a party is using the procedures set forth in this article for the  
2657 purpose of harassment or delay, such conduct may be punished as contempt of court.

2658 ARTICLE 7

2659 24-13-150.

2660 Superior courts may entertain proceedings for the perpetuation of testimony in all  
2661 proceedings in which the fact to which the testimony relates cannot immediately be made  
2662 the subject of investigation at law and in which, for any cause, the common-law proceeding  
2663 authorized under this title is not as available, or as completely available, as a proceeding  
2664 in equity.

2665 24-13-151.

2666 A petition for discovery merely or to perpetuate testimony shall not be sustained unless  
2667 some reason is shown why the usual proceeding at law is inadequate.

2668 24-13-152.

2669 The possession of the property is immaterial; nor shall the proceeding be denied though all  
2670 parties in interest cannot be ascertained or reached.

2671 24-13-153.

2672 Testimony taken in the proceedings contemplated under Code Section 24-13-150 shall be  
2673 used only from the necessity of the case, but in such case may be used against all persons,  
2674 whether parties to the proceeding or not.

2675 24-13-154.

2676 The complainant shall in all cases be taxed with the costs of proceedings to perpetuate  
2677 testimony.

2678 CHAPTER 14

2679 ARTICLE 1

2680 24-14-1.

2681 The burden of proof generally lies upon the party who is asserting or affirming a fact and  
2682 to the existence of whose case or defense the proof of such fact is essential. If a negation  
2683 or negative affirmation is essential to a party's case or defense, the proof of such negation  
2684 or negative affirmation shall lie on the party so affirming it.

2685 24-14-2.

2686 What amount of evidence will change the onus or burden of proof shall be a question to be  
2687 decided in each case by the sound discretion of the court.

2688 24-14-3.

2689 Moral and reasonable certainty is all that can be expected in legal investigation. Except as  
2690 provided in Code Section 51-1-29.5 or Code Section 51-12-5.1, in all civil proceedings, a  
2691 preponderance of evidence shall be considered sufficient to produce mental conviction.  
2692 In criminal proceedings, a greater strength of mental conviction shall be held necessary to  
2693 justify a verdict of guilty.

2694 24-14-4.

2695 In determining where the preponderance of evidence lies, the jury may consider all the  
2696 facts and circumstances of the case, the witnesses' manner of testifying, their intelligence,  
2697 their means and opportunity for knowing the facts to which they testified, the nature of the  
2698 facts to which they testified, the probability or improbability of their testimony, their  
2699 interest or want of interest, and their personal credibility so far as the same may  
2700 legitimately appear from the trial. The jury may also consider the number of the witnesses,  
2701 though the preponderance is not necessarily with the greater number.

2702 24-14-5.

2703 Whether dependent upon direct or circumstantial evidence, the true question in criminal  
2704 cases is not whether it is possible that the conclusion at which the evidence points may be  
2705 false, but whether there is sufficient evidence to satisfy the mind and conscience beyond  
2706 a reasonable doubt.

2707 24-14-6.

2708 To warrant a conviction on circumstantial evidence, the proved facts shall not only be  
2709 consistent with the hypothesis of guilt, but shall exclude every other reasonable hypothesis  
2710 save that of the guilt of the accused.

2711 24-14-7.

2712 The existence of a fact testified to by one positive witness is to be believed, rather than that  
2713 such fact did not exist because many other witnesses who had the same opportunity of  
2714 observation swear that they did not see or know of its having existed. This rule shall not  
2715 apply when two parties have equal facilities for seeing or hearing a thing and one swears  
2716 that it occurred while the other swears that it did not.

2717 24-14-8.

2718 The testimony of a single witness is generally sufficient to establish a fact. However, in  
2719 certain cases, including prosecutions for treason, prosecutions for perjury, and felony cases  
2720 where the only witness is an accomplice, the testimony of a single witness shall not be  
2721 sufficient. Nevertheless, corroborating circumstances may dispense with the necessity for  
2722 the testimony of a second witness, except in prosecutions for treason.

2723 24-14-9.

2724 In arriving at a verdict, the jury, from facts proved, and sometimes from the absence of  
2725 counter evidence, may infer the existence of other facts reasonably and logically  
2726 consequent on those proved.

2727 ARTICLE 2

2728 24-14-20.

2729 Presumptions are either of law or of fact. Presumptions of law are conclusions and  
2730 inferences which the law draws from given facts. Presumptions of fact shall be exclusively  
2731 questions for the jury, to be decided by the ordinary test of human experience.

2732 24-14-21.

2733 Certain presumptions of law, such as the presumption of innocence, in some cases the  
2734 presumption of guilt, the presumption of continuance of life for seven years, the  
2735 presumption of a mental state once proved to exist, and all similar presumptions, may be  
2736 rebutted by proof.

2737 24-14-22.

2738 If a party has evidence in such party's power and within such party's reach by which he or  
2739 she may repel a claim or charge against him or her but omits to produce it or if such party  
2740 has more certain and satisfactory evidence in his or her power but relies on that which is  
2741 of a weaker and inferior nature, a presumption arises that the charge or claim against such  
2742 party is well founded; but this presumption may be rebutted.

2743 24-14-23.

2744 In the ordinary course of business, when good faith requires an answer, it is the duty of the  
2745 party receiving a letter from another to answer within a reasonable time. Otherwise, the  
2746 party shall be presumed to admit the propriety of the acts mentioned in the letter of the  
2747 party's correspondent and to adopt them.

2748 24-14-24.

2749 In any proceeding to establish a right, title, or interest in or to real property that is a part of  
2750 a railroad right of way, including a right of ingress or egress, where such proceeding is  
2751 based upon occupancy of the railroad right of way by a person or entity other than the  
2752 railroad corporation or railroad company, there shall be a presumption that any such

2753 occupancy of the railroad right of way is with the permission of the railroad corporation  
 2754 or railroad company. Such presumption may be rebutted.

2755 24-14-25.

2756 (a) As used in this Code section:

2757 (1) 'Bank' means any person engaged in the business of banking and includes, in addition  
 2758 to a commercial bank, a savings and loan association, savings bank, or credit union.

2759 (2) 'Check' means a draft, other than a documentary draft, payable on demand and drawn  
 2760 on a bank, even though it is described by another term, such as 'share draft' or 'negotiable  
 2761 order of withdrawal.'

2762 (b) In any dispute concerning payment by means of a check, a duplicate of the check  
 2763 produced in accordance with Code Section 24-10-1003, together with the original bank  
 2764 statement that reflects payment of the check by the bank on which it was drawn or a  
 2765 duplicate thereof produced in the same manner, shall create a presumption that the check  
 2766 has been paid.

2767 24-14-26.

2768 (a) Conclusive presumptions of law are termed estoppels; averments to the contrary of  
 2769 such presumptions shall not be allowed. Estoppels are not generally favored.

2770 (b) Estoppels include presumptions in favor of:

2771 (1) A record or judgment unreversed;

2772 (2) The proper conduct of courts and judicial officers acting within their legitimate  
 2773 spheres;

2774 (3) The proper conduct of other officers of the law after the lapse of time has rendered  
 2775 it dangerous to open the investigation of their acts in regard to mere formalities of the  
 2776 law;

2777 (4) Ancient deeds and other instruments more than 30 years old, when they come from  
 2778 proper custody and possession has been held in accordance with them;

2779 (5) Recitals in deeds, except payment of purchase money, as against a grantor, sui juris,  
 2780 acting in his or her own right, and his or her privies in estate, in blood, and in law;

2781 (6) A landlord's title as against his or her tenant in possession;

2782 (7) Solemn admissions made in judicio; or

2783 (8) Admissions upon which other parties have acted, either to their own injury or to the  
 2784 benefit of the persons making the admissions.

2785 Estoppels also include all similar cases where it would be more unjust and productive of  
 2786 evil to hear the truth than to forbear investigation.

2787 24-14-27.

2788 (a) Where an estoppel relates to the title to real estate, the party claiming to have been  
2789 influenced by the other party's acts or declarations shall not only have been ignorant of the  
2790 true title, but also ignorant of any convenient means of acquiring such knowledge.

2791 (b) Where both parties have equal knowledge or equal means of obtaining the truth, there  
2792 shall be no estoppel.

2793 24-14-28.

2794 Trustees and other representatives with custody of papers have ample opportunities to  
2795 discover defects in the title of property in their care and shall be estopped from setting up  
2796 title adverse to their trust.

2797 24-14-29.

2798 In order for an equitable estoppel to arise, there shall generally be some intended deception  
2799 in the conduct or declarations of the party to be estopped, or such gross negligence as to  
2800 amount to constructive fraud, by which another has been misled to his or her injury.

2801 ARTICLE 3

2802 24-14-40.

2803 (a) Concordance of name alone is some evidence of identity. Residence, vocation,  
2804 ownership of property, and other like facts may be proved. Reasonable certainty shall be  
2805 all that is be required.

2806 (b) In civil proceedings, parties shall generally be relieved from the onus of proving  
2807 identity, as it is a fact generally more easily disproved than established.

2808 24-14-41.

2809 An officer de facto may be proved to be such by his or her acts, without the production of  
2810 his or her commission or appointment.

2811 24-14-42.

2812 A judgment shall be admissible between any parties to show the fact of the rendition  
2813 thereof; between parties and privies it is conclusive as to the matter directly in issue, until  
2814 reversed or set aside.

2815 24-14-43.

2816 Stern's United States calendar and Stafford's office calendar shall be admissible in proof  
2817 of dates for the space of time covered by them respectively without further proof.

2818 24-14-44.

2819 In all civil proceedings where the life expectancy of a person shall be an issue, the  
2820 American Experience Mortality Tables shall be admissible as evidence of the life  
2821 expectancy of such person.

2822 24-14-45.

2823 (a) In addition to any other lawful methods of computing the value of the life of a decedent  
2824 in wrongful death cases or of determining the present value of future due earnings or  
2825 amounts in proceedings involving permanent personal injuries, there shall be admissible  
2826 in evidence, as competent evidence in such proceedings, either or both of the following  
2827 mortality tables:

2828 (1) The Commissioners 1958 Standard Ordinary Mortality Table; or

2829 (2) Annuity Mortality Table for 1949, Ultimate.

2830 (b) In addition to the provisions set out in subsection (a) of this Code section, the jury or  
2831 court shall be authorized in cases of wrongful death or permanent personal injuries to use  
2832 any table determined by the jury or court, whichever is the trier of fact, to be accurate in  
2833 showing the value of annuities on single lives according to the mortality tables listed in  
2834 subsection (a) of this Code section.

2835 (c) The admissible evidence provided for in subsections (a) and (b) of this Code section  
2836 shall not be the exclusive method which the jury or court is required to use in such  
2837 proceedings but shall be supplementary to other lawful and allowable evidence and  
2838 methods for such purpose.

2839 24-14-46.

2840 All inspection certificates issued by the United States Department of Agriculture over the  
2841 signature of any inspector thereof which are admissible in courts of the United States as  
2842 prima-facie evidence of the truth of the statements therein contained shall be admissible  
2843 in all courts of the State of Georgia as prima-facie evidence of the truth of the statements  
2844 therein contained.

2845 24-14-47.

2846 (a) A written finding of presumed death made by officers or employees of the United  
2847 States authorized to make such findings pursuant to any law of the United States or a duly

2848 certified copy of such finding shall be received in any court, office, or other place in this  
 2849 state as evidence of the death of the person therein found to be dead and the date,  
 2850 circumstances, and place of his or her disappearance.

2851 (b) An official written report, record, or duly certified copy thereof that a person is  
 2852 missing, missing in action, interned in a neutral country, beleaguered, besieged, or captured  
 2853 by an enemy, dead or alive, made by an officer or employee of the United States authorized  
 2854 by any law of the United States to make the same shall be received in any court, office, or  
 2855 other place in this state as evidence that such person is missing, missing in action, interned  
 2856 in a neutral country, beleaguered, besieged, or captured by an enemy, dead or alive, as the  
 2857 case may be.

2858 (c) For the purposes of subsections (a) and (b) of this Code section, any finding, report,  
 2859 record, or duly certified copy thereof purporting to have been signed by an officer or  
 2860 employee of the United States as is described in this Code section shall prima facie be  
 2861 deemed to have been signed and issued by such an officer or employee pursuant to law, and  
 2862 the person signing same shall prima facie be deemed to have acted within the scope of his  
 2863 or her authority."

## 2864 **SECTION 2.**

2865 Code Section 4-11-17 of the Official Code of Georgia Annotated, relating to filing a report  
 2866 regarding animal cruelty, is amended by revising subsection (a) as follows:

2867 "(a) Notwithstanding Code Section ~~24-9-29~~ 24-12-31 or any other provision of law to the  
 2868 contrary, any licensed veterinarian or veterinary technician having reasonable cause to  
 2869 believe that an animal has been subjected to animal cruelty in violation of Code Section  
 2870 16-12-4 or an act prohibited under Code Section 16-12-37 may make or cause to be made  
 2871 a report of such violation to the Commissioner, his or her designee, an animal control  
 2872 officer, a law enforcement agency, or a prosecuting attorney and may appear and testify in  
 2873 any judicial or administrative proceeding concerning the care of an animal."

## 2874 **SECTION 3.**

2875 Article 1 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to  
 2876 provisions applicable to the Department of Banking and Finance and financial institutions  
 2877 generally, is amended by revising Code Section 7-1-63, relating to retention of records, as  
 2878 follows:

2879 "7-1-63.

2880 (a) The department shall issue regulations classifying records kept by financial institutions  
 2881 and prescribing the period, if any, for which records of each class shall be retained and the  
 2882 form in which such records shall be maintained. Such periods may be permanent or for a

2883 lesser term of years. In issuing such regulations, consideration shall be given to the  
2884 objectives of this chapter and to:

- 2885 (1) Evidentiary effect in actions at law and administrative proceedings in which the  
2886 production of records of financial institutions might be necessary or desirable;
- 2887 (2) State and federal statutes of limitation applicable to such actions or proceedings;
- 2888 (3) Availability of information contained in the records of the financial institution from  
2889 other sources;
- 2890 (4) Requirements of electronic systems of transferring funds; and
- 2891 (5) Other pertinent matters;

2892 so that financial institutions will be required to retain records for as short a period as is  
2893 commensurate with interests of customers, shareholders, and the people of this state.

2894 (b) The regulations of the department shall not require financial institutions to maintain  
2895 originals of checks or items for the payment of money or original computer tapes or  
2896 original records with respect to accounts which have been inactive for a period of 12  
2897 successive months. Where a financial institution employs computers, its records may  
2898 consist of legible products of computer operations.

2899 ~~(c) Any copy of a record or of a reproduction of a record stored in an electronic or  
2900 photographic medium permitted to be kept in lieu of the original, under this Code section  
2901 or the regulations of the department, including legible products of computer operations,  
2902 shall be admissible in evidence as though it were the original."~~

2903

#### SECTION 4.

2904 Said article is further amended by revising Code Section 7-1-94, relating to evidential value  
2905 of results of examinations or investigations, as follows:

2906 "7-1-94.

2907 ~~(a) The~~ When the record of any examination or investigation of a financial institution by  
2908 the department or the report by the examiner or employee of the department who conducted  
2909 such examination or investigation ~~or a copy of either, when duly certified by the  
2910 department, shall, in the absence of any applicable privilege, be is~~ admissible and constitute  
2911 prima-facie in evidence of facts therein stated, but not of conclusions drawn by the  
2912 examiner from such facts, in any action at law or equity in which one of the parties is the  
2913 ~~department or any officer or employee thereof, either in his official capacity or otherwise,  
2914 or the financial institution subjected to examination or investigation~~ under Title 24, the  
2915 department, with the permission of the court, may edit out of the record or report any  
2916 portion thereof which is not pertinent to the issue in question before the court or which  
2917 would tend unnecessarily to affect adversely the public confidence in the financial  
2918 institution.

2919 ~~(b) The department, with the permission of the court, may edit out of any report to be~~  
 2920 ~~admitted as evidence pursuant to subsection (a) of this Code section any portion of the~~  
 2921 ~~report which is not pertinent to the issue in question before the court or which would tend~~  
 2922 ~~unnecessarily to affect adversely the public confidence in the financial institution."~~

#### 2923 SECTION 5.

2924 Said article is further amended by revising Code Section 7-1-95, relating to the admissibility  
 2925 of department's certificates and copies, as follows:

2926 "7-1-95.

2927 ~~When duly certified by the department, a copy of any book, paper, or document on file with~~  
 2928 ~~it or a certificate under its seal shall be prima-facie evidence of the facts therein stated in~~  
 2929 ~~any court of law or equity or in any investigation or proceeding authorized by law or for~~  
 2930 ~~any other purpose and shall be admissible without any additional authentication, but in any~~  
 2931 ~~proceeding the court or public body having jurisdiction may, on cause shown, require~~  
 2932 ~~production of the original Reserved."~~

#### 2933 SECTION 6.

2934 Article 1 of Chapter 3 of Title 8 of the Official Code of Georgia Annotated, relating to  
 2935 housing authorities, is amended by revising Code Section 8-3-6, relating to resolution as  
 2936 conclusive evidence of authority's establishment and authority, as follows:

2937 "8-3-6.

2938 In any action or proceeding involving the validity or enforcement of, or otherwise relating  
 2939 to, any contract of an authority, the authority shall be conclusively deemed to have become  
 2940 established and authorized to transact business and exercise its powers under this article  
 2941 upon proof of the adoption of a resolution by the governing body declaring the need for the  
 2942 authority. Such resolution shall be deemed sufficient if it declares that there is need for an  
 2943 authority and finds in substantially such terms as appear in subsection (a) of Code Section  
 2944 8-3-5, no further detail being necessary, that either or both of the conditions enumerated  
 2945 in that subsection exist in the city or county, as the case may be. ~~A copy of such resolution~~  
 2946 ~~duly certified by the clerk shall be admissible in evidence in any action or proceeding."~~

#### 2947 SECTION 7.

2948 Said article is further amended by revising Code Section 8-3-104, relating to resolution as  
 2949 conclusive evidence of an authority's establishment, as follows:

2950 "8-3-104.

2951 In any suit, action, or proceeding involving the validity or enforcement of or relating to any  
 2952 contract of the regional housing authority, the regional housing authority shall be

2953 conclusively deemed to have become created as a public body corporate and politic and to  
 2954 have become established and authorized to transact business and exercise its powers under  
 2955 this part upon proof of the adoption of a resolution by the governing body of each of the  
 2956 counties creating the regional housing authority declaring the need for the regional housing  
 2957 authority. Each such resolution shall be deemed sufficient if it declares that there is need  
 2958 for the regional housing authority and finds in substantially such terms as appear in  
 2959 paragraphs (1) and (2) of subsection (a) of Code Section 8-3-102, no further detail being  
 2960 necessary, that the conditions enumerated in those paragraphs exist. ~~A copy of such~~  
 2961 ~~resolution of the governing body of a county duly certified by the clerk of such county shall~~  
 2962 ~~be admissible in evidence in any suit, action, or proceeding."~~

### 2963 SECTION 8.

2964 Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by  
 2965 revising Code Section 9-10-6, relating to juror's private knowledge, as follows:

2966 "9-10-6.

2967 A juror shall not act on his or her private knowledge respecting the facts, witnesses, or  
 2968 parties ~~unless sworn and examined as a witness in the case."~~

### 2969 SECTION 9.

2970 Said title is further amended by revising Code Section 9-10-9, relating to jurors' affidavits  
 2971 permitted to uphold but not impeach a verdict, as follows:

2972 "9-10-9.

2973 ~~The affidavits of jurors may be taken to sustain but not to impeach their verdict~~ Reserved."

### 2974 SECTION 10.

2975 Said title is further amended by revising Code Section 9-11-44, relating to official records,  
 2976 as follows:

2977 "9-11-44.

2978 ~~(a) *Proof of lack of record.* A written statement, signed by an officer having the custody~~  
 2979 ~~of an official record or by his deputy, that after diligent search no record or entry of a~~  
 2980 ~~specified tenor is found to exist in the records of his office, accompanied by a certificate~~  
 2981 ~~attesting to his custody of the official record relating to such matters, is admissible as~~  
 2982 ~~evidence that the records of his office contain no such record or entry.~~

2983 ~~(b) *Other proof.* This Code section does not prevent the proof of official records or of~~  
 2984 ~~entry or lack of entry therein by any method authorized by any applicable statutes or by the~~  
 2985 ~~rules of evidence at common law~~ Reserved."

2986 **SECTION 11.**

2987 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is  
 2988 amended by revising Code Section 10-1-157, relating to collecting and testing samples of  
 2989 petroleum products and analyses as evidence, as follows:

2990 "10-1-157.

2991 The Commissioner of Agriculture shall, from time to time, collect or cause to be collected  
 2992 samples of all petroleum products subject to regulation under this part which are sold,  
 2993 offered, or exposed for sale in this state and cause such samples to be tested or analyzed  
 2994 by the state oil chemist. ~~The state oil chemist shall certify, under oath, an analysis of each  
 2995 such sample and such certificate shall be competent evidence of the composition of such  
 2996 petroleum product in any legal proceeding."~~

2997 **SECTION 12.**

2998 Said title is further amended by revising Code Section 10-1-188, relating to certified analyses  
 2999 as evidence, as follows:

3000 "10-1-188.

3001 ~~A copy of the analysis made by the state oil chemist of any brake fluid certified by him  
 3002 shall be admitted as evidence in any court of this state on the trial of any issue involving  
 3003 the analysis, standards, or specifications of brake fluid as defined and covered by this part  
 3004 Reserved."~~

3005 **SECTION 13.**

3006 Said title is further amended by revising Code Section 10-1-208, relating to certified analyses  
 3007 as evidence, as follows:

3008 "10-1-208.

3009 ~~A copy of the analysis made by the state oil chemist of the Department of Agriculture of  
 3010 any antifreeze and certified by him shall be admitted as evidence in any court of this state  
 3011 upon trial of any issue involving the merits of antifreeze as defined and covered by this part  
 3012 Reserved."~~

3013 **SECTION 14.**

3014 Said title is further amended by revising Code Section 10-1-444, relating to registration of  
 3015 marks, certificate, and use as evidence, as follows:

3016 "10-1-444.

3017 Upon compliance by the applicant with the requirements of this part, the Secretary of State  
 3018 shall cause a certificate of registration to be issued and delivered to the applicant. The  
 3019 certificate of registration shall be issued under the signature of the Secretary of State and

3020 the seal of the state and it shall show the name and business address and, if a corporation,  
 3021 the state of incorporation, of the person claiming ownership of the trademark or service  
 3022 mark; the date claimed for the first use of the trademark or service mark anywhere and the  
 3023 date claimed for the first use of the trademark or service mark in this state; the class of  
 3024 goods or services and a description of the goods or services on which the trademark or  
 3025 service mark is used; a reproduction of the trademark or service mark; the registration date;  
 3026 and the term of the registration.

3027 ~~Any certificate of registration issued by the Secretary of State under the provisions of this~~  
 3028 ~~Code section or a copy thereof duly certified by the Secretary of State shall be admissible~~  
 3029 ~~in evidence as competent and sufficient proof of the registration of such trademark or~~  
 3030 ~~service mark in any action or judicial proceedings in any court of this state."~~

3031 **SECTION 15.**

3032 Said title is further amended by revising Code Section 10-4-15, relating to inspections of  
 3033 warehouses and reports as evidence, as follows:

3034 "10-4-15.

3035 In addition to the general powers conferred by Code Section 10-4-5, the Commissioner and  
 3036 his or her duly authorized agents or employees shall have full power and authority to  
 3037 inspect public warehouses operated under this article, to inventory, and to check the  
 3038 agricultural products stored so as to ascertain the conditions of such products and to  
 3039 determine whether or not the business is conducted in such a manner as to protect the  
 3040 interest of persons who are storing or may store such products. The inspectors shall make  
 3041 sworn reports of their findings to the Commissioner, who shall hold and keep such reports  
 3042 in the records of his or her office. ~~Such reports when sworn to shall be public records and~~  
 3043 ~~shall be admissible as evidence.~~ Such inspections shall be made as often as deemed  
 3044 necessary by the Commissioner, but not less than twice during any license period and, in  
 3045 addition, as often as requested by the warehouseman."

3046 **SECTION 16.**

3047 Said title is further amended by revising Code Section 10-6-64, relating to agent may be a  
 3048 witness, credibility, and admissibility of agent's declarations, as follows:

3049 "10-6-64.

3050 ~~The agent shall be a competent witness either for or against his principal. His interest shall~~  
 3051 ~~go to his credit. The declarations of the agent as to the business transacted by him shall not~~  
 3052 ~~be admissible against his principal unless they were a part of the negotiation constituting~~  
 3053 ~~the res gestae, or else the agent is dead Reserved."~~

3054 **SECTION 17.**

3055 Said title is further amended by revising Code Section 10-14-27, relating to evidence in civil  
3056 or criminal actions under Chapter 14, as follows:

3057 "10-14-27.

3058 ~~(a) In any action, civil or criminal, a certificate signed and sealed by the Secretary of State,~~  
3059 ~~stating compliance or noncompliance with the provisions of this chapter, shall constitute~~  
3060 ~~prima-facie evidence of such compliance or noncompliance with the provisions of this~~  
3061 ~~chapter and shall be admissible in any such action.~~

3062 ~~(b) In any action, civil or criminal, copies, photostatic or otherwise, certified by the~~  
3063 ~~Secretary of State of any documents filed in his or her office and of any of his or her~~  
3064 ~~records shall be admissible with the same effect as the original of such documents or~~  
3065 ~~records would have if actually produced Reserved."~~

3066 **SECTION 18.**

3067 Code Section 14-9A-117 of the Official Code of Georgia Annotated, relating to certified  
3068 copies admissible in evidence, is amended as follows:

3069 "14-9A-117.

3070 ~~A certified copy of the certificate, power of attorney, and affidavits required to be filed~~  
3071 ~~under Code Sections 14-9A-115 and 14-9A-116 shall be admissible in evidence in all~~  
3072 ~~courts and places whatever Reserved."~~

3073 **SECTION 19.**

3074 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
3075 Code Section 15-11-79.1, relating to the use and disposition of evidence, as follows:

3076 "15-11-79.1.

3077 Except as provided in subsection (d) of Code Section 24-6-609, the ~~The~~ disposition of a  
3078 child and evidence adduced in a hearing in the juvenile court may not be used against such  
3079 child in any proceeding in any court other than for a proceeding for delinquency or  
3080 unruliness, whether before or after reaching majority, except in the establishment of  
3081 conditions of bail, plea negotiations, and sentencing in felony offenses; and, in such  
3082 excepted cases, such records of dispositions and evidence shall be available to district  
3083 attorneys and superior court judges and the accused and may be used in the same manner  
3084 as adult records."

3085 **SECTION 20.**

3086 Said title is further amended by revising paragraph (2) of subsection (c) of Code Section  
3087 15-18-14.1, relating to district attorney investigators, as follows:

3088 "(2) Assist victims and witnesses of crimes through the complexities of the criminal  
 3089 justice system and ensure that victims of crime are apprised of the rights afforded them  
 3090 under Chapter 14 of Title 17, ~~relating to restitution to victims of crime~~; Chapter 17 of  
 3091 Title 17, the 'Crime Victims' Bill of Rights'; Chapter 18 of Title 17, ~~relating to providing~~  
 3092 ~~a written statement of information to victims of rape or forcible sodomy~~; and Code  
 3093 Section ~~24-6-616~~ ~~24-9-61.1~~, relating to the presence of crime victims in the courtroom;"

3094 **SECTION 21.**

3095 Said title is further amended by revising paragraph (2) of subsection (b) of Code Section  
 3096 15-18-15, relating to chief assistant district attorney, as follows:

3097 "(2) If the district attorney will be temporarily absent from the judicial circuit such that  
 3098 he or she is not available to perform the duties of his or her office, the district attorney  
 3099 may authorize, in writing, the chief assistant district attorney to exercise any of the  
 3100 powers, duties, and responsibilities of the district attorney during such absence, including  
 3101 but not limited to such powers and duties as the district attorney may have pursuant to  
 3102 this title, Code Section 16-11-64, and Code Section ~~24-9-28~~ 24-5-507 and the laws of this  
 3103 state relating to the validation of bonds."

3104 **SECTION 22.**

3105 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 3106 amended by revising subsection (e) of Code Section 16-5-27, relating to female genital  
 3107 mutilation, as follows:

3108 "(e) The statutory privileges provided by Chapter ~~9~~ 5 of Title 24 shall not apply to  
 3109 proceedings in which one of the parties to the privilege is charged with a crime against a  
 3110 female under 18 years of age, but such person shall be compellable to give evidence only  
 3111 on the specific act for which the ~~defendant~~ accused is charged."

3112 **SECTION 23.**

3113 Said title is further amended by revising Code Section 16-12-55, relating to certification of  
 3114 tax-exempt status of organization and evidentiary nature of certificate, is amended as  
 3115 follows:

3116 "16-12-55.

3117 The director shall upon the request of any prosecuting attorney or his or her designee  
 3118 certify the status of any organization as to that organization's exemption from payment of  
 3119 state income taxes as a nonprofit organization. The director shall also upon request issue  
 3120 a certificate indicating whether any particular organization holds a currently valid license  
 3121 to operate a bingo game. ~~Such certificates properly executed shall be admissible in~~

3122 ~~evidence in any prosecution and~~ Code Section 48-7-60, relative to the disclosure of income  
3123 tax information, shall not apply to the furnishing of such certificate."

3124 **SECTION 24.**

3125 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
3126 amended by adding a new Code section to Article 2 of Chapter 4, relating to arrest by law  
3127 enforcement officers generally, to read as follows:

3128 "17-4-30.

3129 In the event a hearing impaired person is arrested for any alleged violation of a criminal  
3130 law of this state, the arresting officer shall comply with the provisions of Article 3 of  
3131 Chapter 6 of Title 24."

3132 **SECTION 25.**

3133 Said title is further amended by revising paragraph (4) of subsection (b) of Code Section  
3134 17-4-40, relating to persons who may issue warrants for arrest of offenders against penal  
3135 laws, as follows:

3136 "(4) At the warrant application hearing, the rules ~~regarding admission~~ of evidence at a  
3137 commitment hearing shall apply as set forth in paragraph (1) of subsection (d) of Code  
3138 Section 24-1-2. The person seeking the warrant shall have the customary rights of  
3139 presentation of evidence and cross-examination of witnesses. The person whose arrest  
3140 is sought may cross-examine the person or persons applying for the warrant and any other  
3141 witnesses testifying in support of the application at the hearing. The person whose arrest  
3142 is sought may present evidence that probable cause does not exist for his or her arrest.  
3143 The judge or other officer shall have the right to limit the presentation of evidence and  
3144 the cross-examination of witnesses to the issue of probable cause."

3145 **SECTION 26.**

3146 Said title is further amended by revising Code Section 17-7-25, relating to the power of the  
3147 court to compel attendance of witnesses, as follows:

3148 "17-7-25.

3149 A court of inquiry shall have the same power to compel the attendance of witnesses as in  
3150 other criminal cases, as set forth in and subject to all of the provisions of Chapter ~~10~~ 13 of  
3151 Title 24, at any location where the court shall conduct a hearing, provided that notice is  
3152 given at least 24 hours prior to the hearing. A court of inquiry may order the arrest of  
3153 witnesses if required to compel their attendance."

3154 **SECTION 27.**

3155 Said title is further amended by revising Code Section 17-7-28, relating to hearing of  
 3156 evidence by court of inquiry and the right of a defendant to testify, as follows:

3157 "17-7-28.

3158 The court of inquiry shall hear all legal evidence submitted by either party. If the  
 3159 ~~defendant~~ accused wishes to testify and announces in open court before the court of inquiry  
 3160 his or her intention to do so, ~~he~~ the accused may testify in his or her own behalf. If ~~he so~~  
 3161 the accused elects to testify, he or she shall be sworn as any other witness and may be  
 3162 examined and cross-examined as any other witness, ~~except that no evidence of general bad~~  
 3163 ~~character or prior convictions shall be admissible unless and until the defendant first puts~~  
 3164 ~~his character into issue.~~ The rules of evidence shall apply except that hearsay shall be  
 3165 admissible. The failure of ~~a defendant~~ an accused to testify shall create no presumption  
 3166 against ~~him~~ the accused, and no comment may be made because of such failure."

3167 **SECTION 28.**

3168 Said title is further amended by revising subsection (b) of Code Section 17-7-93, relating to  
 3169 reading of indictment or accusation and recording of 'guilty' pleas and pronouncement of  
 3170 judgment, as follows:

3171 "(b) If the person pleads 'guilty,' the plea shall be immediately recorded on the minutes of  
 3172 the court by the clerk, together with the arraignment; and the court shall pronounce the  
 3173 judgment of the law upon the person in the same manner as if he or she had been convicted  
 3174 of the offense by the verdict of a jury. At any time before judgment is pronounced, the  
 3175 accused person may withdraw the plea of 'guilty' and plead 'not guilty'; ~~and the former plea~~  
 3176 ~~shall not be admissible as evidence against him at his trial."~~

3177 **SECTION 29.**

3178 Said title is further amended by revising Code Section 17-9-20, relating to action by juror on  
 3179 private knowledge as to facts, witnesses, or parties, as follows:

3180 "17-9-20.

3181 A juror shall not act on his or her private knowledge respecting the facts, witnesses, or  
 3182 parties ~~unless he is sworn and examined as a witness in the case."~~

3183 **SECTION 30.**

3184 Said title is further amended by revising Code Section 17-9-41, relating to the use of  
 3185 affidavits of jurors relating to verdict, as follows:

3186 "17-9-41.

3187 ~~The affidavits of jurors may be taken to sustain but not to impeach their verdict~~ Reserved."

3188

**SECTION 31.**

3189 Said title is further amended by revising subparagraph (b)(3)(C) of Code Section 17-16-4,  
3190 relating to disclosure required by prosecuting attorney and defendant, as follows:

3191 "(C) The defendant shall, no later than five days before the trial commences, serve  
3192 upon the prosecuting attorney a list of witnesses that the defendant intends to call as a  
3193 witness in the presentence hearing. No later than the announcement of the verdict of  
3194 the jury or if the defendant has waived a jury trial at the time the verdict is published  
3195 by the court, the defendant shall produce for the opposing party any statement of such  
3196 witnesses that is in the possession, custody, or control of the defendants or the  
3197 defendant's counsel that relates to the subject matter of the testimony of such witnesses  
3198 unless such statement is protected from disclosure by the privilege contained in  
3199 paragraph (5), (6), (7), or (8) of subsection (a) of Code Section 24-9-21 24-5-501."

3200

**SECTION 32.**

3201 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
3202 revising subsection (d) of Code Section 20-2-940, relating to grounds and procedure for  
3203 terminating or suspending contract of employment, as follows:

3204 "(d) *Counsel; testimony.* Any teacher, principal, or other person against whom such  
3205 charges listed in subsection (a) of this Code section have been brought shall be entitled to  
3206 be represented by counsel and, upon request, shall be entitled to have subpoenas or other  
3207 compulsory process issued for attendance of witnesses and the production of documents  
3208 and other evidence. Such subpoenas and compulsory process shall be issued in the name  
3209 of the local board and shall be signed by the ~~chairman~~ chairperson or ~~vice-chairman~~ vice  
3210 chairperson of the local board. In all other respects, such subpoenas and other compulsory  
3211 process shall be subject to ~~Part 1 of Article 2 of Chapter 10~~ 13 of Title 24, ~~as now or~~  
3212 ~~hereafter amended.~~"

3213

**SECTION 33.**

3214 Said title is further amended by revising Code Section 20-2-991, relating to liability  
3215 insurance for performance of duties authorized and the admissibility of insurance in  
3216 evidence, as follows:

3217 "20-2-991.

3218 In addition to other compensation paid to members of the State Board of Education, the  
3219 State School Superintendent, and employees of the state board, and to members of boards  
3220 of education, school superintendents, teachers, principals, officers, and employees of  
3221 boards of control of cooperative educational service agencies, and other administrators and  
3222 employees of county and other local public school systems, the state board, the boards of

3223 control of cooperative educational service agencies, and the several boards of education of  
 3224 counties, cities, and independent school systems, whenever created, are authorized, in their  
 3225 discretion, to purchase policies of liability insurance or contracts of indemnity insuring or  
 3226 indemnifying the members of the state board, State School Superintendent, employees of  
 3227 the state board, officers and employees of boards of control of cooperative educational  
 3228 service agencies, and the members of the boards of education, superintendents, teachers,  
 3229 principals, and other administrators and employees against damages arising out of the  
 3230 performance of their duties or in any way connected therewith, whether based upon  
 3231 negligence, violation of contract rights, or violation of civil, constitutional, common-law,  
 3232 or other statutory rights, whether state, federal, or both. Such boards may expend state,  
 3233 county, federal, and local funds, or any combination thereof, for such purposes. The  
 3234 amount of such insurance or indemnity shall be in the discretion of the respective board.  
 3235 No action shall be maintained against the person or company issuing such insurance or  
 3236 contracting for such indemnity until final judgment has first been entered against the  
 3237 individual covered by such policy or contract, ~~and the existence of such insurance or~~  
 3238 ~~indemnity shall not be disclosed or suggested in any action brought against such~~  
 3239 ~~individual."~~

3240 **SECTION 34.**

3241 Code Section 22-1-14 of the Official Code of Georgia Annotated, relating to valuation of  
 3242 condemned property, is amended as follows:

3243 "22-1-14.

3244 (a) When property is condemned under this title or any other title of this Code, the value  
 3245 of the condemned property may be determined through lay or expert testimony and its  
 3246 admissibility shall be addressed to the sound discretion of the court.

3247 (b) If any party to a condemnation proceeding seeks to introduce expert testimony as to  
 3248 the issue of just and adequate compensation, Code Section ~~24-9-67.1~~ 24-7-702 shall not  
 3249 apply."

3250 **SECTION 35.**

3251 Code Section 26-4-80 of the Official Code of Georgia Annotated, relating to dispensing and  
 3252 electronically transmitted drug orders, is amended by revising subsection (d) as follows:

3253 "(d) Information contained in the patient medication record or profile shall be considered  
 3254 confidential information as defined in this title. Confidential information may be released  
 3255 to the patient or the patient's authorized representative, the prescriber or other licensed  
 3256 health care practitioners then caring for the patient, another licensed pharmacist, the board  
 3257 or its representative, or any other person duly authorized to receive such information. In

3258 accordance with Code Section ~~24-9-40~~ 24-12-1, confidential information may be released  
 3259 to others only on the written release of the patient, court order, or subpoena."

3260

**SECTION 36.**

3261 Code Section 28-1-16 of the Official Code of Georgia Annotated, relating to issuance of  
 3262 subpoenas by the Superior Court of Fulton County on behalf of the Committees on Ethics  
 3263 of the Senate and House of Representatives, is amended by revising subsection (e) as  
 3264 follows:

3265 "(e) A subpoena issued under this Code section may be served at any place in ~~the~~ this state  
 3266 and in any manner authorized in Code Section ~~24-10-23~~ 24-13-24. Fees and mileage shall  
 3267 be paid and tendered as provided in Code Section ~~24-10-24~~ 24-13-25, notwithstanding the  
 3268 general exemption of the state from tender of fees and mileage, and shall be in the form of  
 3269 a check issued by the Legislative Fiscal Office upon the written request of the chairperson  
 3270 or acting chairperson."

3271

**SECTION 37.**

3272 Code Section 29-9-13.1 of the Official Code of Georgia Annotated, relating to authentication  
 3273 of documents, is amended as follows:

3274 "29-9-13.1.

3275 Whenever it is required that a document which is to be filed in the court be authenticated  
 3276 or exemplified, such requirement shall be met by complying with the provisions of Code  
 3277 Section ~~24-7-24~~ 24-9-922 and paragraphs (1) through (4) of Code Section 24-9-902 and  
 3278 such full faith and credit shall be given to the document as is provided in that Code  
 3279 section."

3280

**SECTION 38.**

3281 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising  
 3282 Code Section 31-5-5, relating to contents of official record as evidence and classification of  
 3283 privileged materials, as follows:

3284 "31-5-5.

3285 ~~(a) Any order, rule, regulation, or any other document, record, or entry contained in the~~  
 3286 ~~official record or minutes of the department or of any county board of health shall be~~  
 3287 ~~admissible in evidence in any proceeding before any court or other tribunal in this state~~  
 3288 ~~where otherwise admissible and not privileged or confidential under this Code section~~  
 3289 ~~when certified as true and correct by and duly authorized by the director at the county level~~  
 3290 ~~and the examiner at the state level. It shall be the duty of the director or examiner, who~~  
 3291 ~~shall be custodian of such records, to furnish and certify copies of the record or other~~

3292 ~~evidence upon payment of reasonable costs therefor. Nothing in this Code section shall be~~  
 3293 ~~construed as applying to Code Section 12-5-175.~~

3294 (b) The department and county boards of health are authorized by regulation to classify  
 3295 as confidential and privileged documents, reports and other information and data obtained  
 3296 by them from persons, firms, corporations, municipalities, counties, and other public  
 3297 authorities and political subdivisions, where such matters relate to secret processes,  
 3298 formulas, and methods or where such matters were obtained or furnished on a confidential  
 3299 basis. All matters so classified shall not be subject to public inspection or discovery and  
 3300 shall not be subject to production or disclosure in any court of law or elsewhere until and  
 3301 unless the judge of the court of competent jurisdiction, after in camera inspection,  
 3302 determines that the public interest requires such production and disclosure or that such  
 3303 production and disclosure may be necessary in the ~~interest~~ interests of justice."

3304

### SECTION 39.

3305 Said title is further amended by revising Code Section 31-10-26, relating to certified copies  
 3306 of vital records, issuance, evidentiary effect, and use for other purposes, as follows:

3307 "31-10-26.

3308 (a) In accordance with Code Section 31-10-25 and the regulations adopted pursuant  
 3309 thereto:

3310 (1) The state registrar or local custodian of vital records appointed by the state registrar  
 3311 to issue certified copies upon receipt of a written application shall issue a certified copy  
 3312 of a vital record in that registrar's or custodian's custody or abstract thereof to any  
 3313 applicant having a direct and tangible interest in the vital record, except that certified  
 3314 copies of certificates shall only be issued to:

3315 (A) The person whose record of birth is registered;

3316 (B) Either parent, guardian, or temporary guardian of the person whose record of birth  
 3317 or death is registered;

3318 (C) The living legal spouse or next of kin or the legal representative or the person who  
 3319 in good faith has applied and produced a record of such application to become the legal  
 3320 representative of the person whose record of birth or death is registered;

3321 (D) The court of competent jurisdiction upon its order or subpoena; or

3322 (E) Any governmental agency, state or federal, provided that such certificate shall be  
 3323 needed for official purposes.

3324 (2) Each certified copy issued shall show the date of registration and ~~copies~~ duplicates  
 3325 issued from records marked 'delayed' or 'amended' shall be similarly marked and show  
 3326 the effective date. The documentary evidence used to establish a delayed certificate of  
 3327 birth shall be shown on all ~~copies~~ duplicates issued. All forms and procedures used in

3328 the issuance of certified copies of vital records in ~~the~~ this state shall be provided or  
3329 approved by the state registrar.

3330 ~~(b) A certified copy of a vital record or any part thereof, issued in accordance with~~  
3331 ~~subsection (a) of this Code section, shall be considered for all purposes the same as the~~  
3332 ~~original and shall be prima-facie evidence of the facts stated therein, provided that the~~  
3333 ~~evidentiary value of a certificate or record filed more than one year after the event, or a~~  
3334 ~~record which has been amended, shall be determined by the judicial or administrative body~~  
3335 ~~or official before whom the certificate is offered as evidence.~~

3336 ~~(c)~~ The federal agency responsible for national vital statistics may be furnished such  
3337 ~~copies~~ duplicates or data from the system of vital records as it may require for national  
3338 statistics, provided such federal agency shares in the cost of collecting, processing, and  
3339 transmitting such data and provided further that such data shall not be used for other than  
3340 statistical purposes by the federal agency unless so authorized by the state registrar.

3341 ~~(d)~~(c) The state registrar may, by agreement, transmit ~~copies~~ duplicates of records and  
3342 other reports required by this chapter to offices of vital records outside this state when such  
3343 records or other reports relate to residents of those jurisdictions or persons born in those  
3344 jurisdictions. The agreement shall require that the ~~copies~~ duplicates be used for statistical  
3345 and administrative purposes only and the agreement shall further provide for the retention  
3346 and disposition of such ~~copies~~ duplicates. Copies Duplicates received by the department  
3347 from offices of vital statistics in other states shall be handled in the same manner as  
3348 prescribed in this Code section.

3349 ~~(e)~~(d) No person shall prepare or issue any certificate which purports to be an original,  
3350 certified copy or ~~copy~~ duplicate of a vital record except as authorized in this chapter or  
3351 regulations adopted under this chapter.

3352 ~~(f)~~(e) No ~~copies~~ duplicates or parts thereof of a vital record shall be reproduced or  
3353 information ~~copies~~ copied for commercial or speculative purposes. This subsection shall  
3354 not apply to published results of research."

#### 3355 **SECTION 40.**

3356 Said title is further amended by revising paragraph (3) of subsection (c) of Code Section  
3357 31-21-3, relating to death of person with infectious or communicable disease, as follows:

3358 "(3) That disclosure is made by a physician pursuant to Code Section ~~24-9-40~~ 24-12-1  
3359 or any other law authorizing a physician to disclose otherwise privileged information;"

3360

**SECTION 41.**

3361 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by  
 3362 revising Code Section 33-2-2, relating to seal of Commissioner and admissibility in evidence  
 3363 of sealed documents, as follows:

3364 "33-2-2.

3365 The Commissioner shall have an official seal of such design as he or she shall select with  
 3366 the approval of the Governor. ~~Every certificate and other document or paper executed by~~  
 3367 ~~the Commissioner in the pursuance of any authority conferred upon him by law and sealed~~  
 3368 ~~with the seal of his office and all copies or photographic copies of papers certified by him~~  
 3369 ~~and authenticated by said seal shall in all cases be evidence 'in equal and like manner' as~~  
 3370 ~~the original thereof and shall in all cases be primary evidence of the contents of the original~~  
 3371 ~~and shall be admissible in any court in this state."~~

3372

**SECTION 42.**

3373 Said title is further amended by revising subsection (b) of Code Section 33-20A-37, relating  
 3374 to the effect of favorable determinations, as follows:

3375 "(b) A determination by the independent review organization in favor of a managed care  
 3376 entity shall create a rebuttable presumption in any subsequent action that the managed care  
 3377 entity's prior determination was appropriate ~~and shall constitute a medical record for~~  
 3378 ~~purposes of Code Section 24-7-8."~~

3379

**SECTION 43.**

3380 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,  
 3381 is amended by revising subsection (a) of Code Section 34-9-60, relating to rule-making and  
 3382 subpoena powers, as follows:

3383 "(a) The board may make rules, not inconsistent with this chapter, for carrying out this  
 3384 chapter. Processes and procedure under this chapter shall be as summary and simple as  
 3385 reasonably possible; provided, however, that, in any proceeding under this chapter where  
 3386 the parties are represented by counsel, the board may require, by rule or regulation, on  
 3387 forms provided by the board, the filing of statements of contentions and points of  
 3388 agreement. The board may promulgate policies, rules, and regulations concerning the  
 3389 electronic submission to and transmission from the board of documents and filings. The  
 3390 board, any member of the board, or any administrative law judge shall have the power for  
 3391 the purposes of this chapter to issue and enforce subpoenas, to administer or cause to have  
 3392 administered oaths, and to examine or cause to be examined such parts of the books and  
 3393 records of the parties to a proceeding as relate to questions in dispute. Article 2 of Chapter  
 3394 ~~10~~ 13 of Title 24 shall govern the issuance and enforcement of subpoenas pursuant to this

3395 Code section, except that the board, any member of the board, or any administrative law  
 3396 judge shall carry out the functions of the court and the executive director shall carry out the  
 3397 functions of the clerk of the court. The board shall not, however, have the power to order  
 3398 imprisonment as a means of enforcing a subpoena. The board shall have the power to issue  
 3399 writs of fieri facias in order to collect fines imposed pursuant to this Code section and such  
 3400 writs may be enforced in the same manner as a similar writ issued by a superior court."

3401 **SECTION 44.**

3402 Said title is further amended by revising paragraph (5) of subsection (e) of Code Section  
 3403 34-9-102, relating to hearings before administrative law judges, as follows:

3404 "(5) Code Section ~~24-3-18~~ 24-8-827 shall not apply to workers' compensation claims  
 3405 filed under this chapter."

3406 **SECTION 45.**

3407 Said title is further amended by revising paragraph (4) of subsection (b) of Code Section  
 3408 34-9-108, relating to approval of attorney's fees by the board, as follows:

3409 "(4) Upon a determination that proceedings have been brought, prosecuted, or defended  
 3410 in whole or in part without reasonable grounds, the administrative law judge or the board  
 3411 may, in addition to reasonable attorney's fees, award to the adverse party in whole or in  
 3412 part reasonable litigation expenses against the offending party. Reasonable litigation  
 3413 expenses under this subsection are limited to witness fees and mileage pursuant to Code  
 3414 Section ~~24-10-24~~ 24-13-25; reasonable expert witness fees subject to the fee schedule;  
 3415 reasonable deposition transcript costs; and the cost of the hearing transcript."

3416 **SECTION 46.**

3417 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia  
 3418 Bureau of Investigation, is amended by adding a new article to read as follows:

3419 ARTICLE 6A

3420 35-3-160.

3421 (a) As used in this article, the term:

3422 (1) 'Department' means the Department of Corrections.

3423 (2) 'Division' means the Division of Forensic Services of the Georgia Bureau of  
 3424 Investigation.

3425 (3) 'State correctional facility' means a penal institution under the jurisdiction of the  
 3426 department, including inmate work camps and inmate boot camps; provided, however,

3427 that such term shall not include a probation detention center, probation diversion center,  
 3428 or probation boot camp under the jurisdiction of the department.

3429 (b) Any person convicted of:

3430 (1) Rape in violation of Code Section 16-6-1;

3431 (2) Sodomy or aggravated sodomy in violation of Code Section 16-6-2;

3432 (3) Statutory rape in violation of Code Section 16-6-3;

3433 (4) Child molestation or aggravated child molestation in violation of Code Section  
 3434 16-6-4;

3435 (5) Enticing a child for indecent purposes in violation of Code Section 16-6-5;

3436 (6) Sexual assault against persons in custody, sexual assault against a person detained  
 3437 or a patient in a hospital or other institution, or sexual assault by a practitioner of  
 3438 psychotherapy against a patient in violation of Code Section 16-6-5.1;

3439 (7) Bestiality in violation of Code Section 16-6-6;

3440 (8) Necrophilia in violation of Code Section 16-6-7; or

3441 (9) Incest in violation of Code Section 16-6-22

3442 shall have a sample of his or her blood, an oral swab, or a sample obtained from a  
 3443 noninvasive procedure taken for DNA (deoxyribonucleic acid) analysis to determine  
 3444 identification characteristics specific to the person. In addition, on and after July 1, 2000,  
 3445 any person convicted of a felony and incarcerated in a state correctional facility shall at the  
 3446 time of entering the prison system have a sample of his or her blood, an oral swab, or a  
 3447 sample obtained from a noninvasive procedure taken for DNA (deoxyribonucleic acid)  
 3448 analysis to determine identification characteristics specific to the person. The provisions  
 3449 and requirements of this Code section shall also apply to any person who has been  
 3450 convicted of a felony prior to July 1, 2000, and who currently is incarcerated in a state  
 3451 correctional facility in this state for such offense. The provisions and requirements of this  
 3452 Code section shall also apply to any person who has been convicted of a felony in this state  
 3453 on or after July 1, 2000, and who is incarcerated in a private correctional facility in this  
 3454 state for such offense pursuant to a contract with the department upon entering the facility,  
 3455 and for any person convicted of a felony prior to July 1, 2000, and who is incarcerated in  
 3456 a private correctional facility in this state pursuant to contract with the department. The  
 3457 analysis shall be performed by the division. The division shall be authorized to contract  
 3458 with individuals or organizations for services to perform such analysis. The identification  
 3459 characteristics of the profile resulting from the DNA analysis shall be stored and  
 3460 maintained by the bureau in a DNA data bank and shall be made available only as provided  
 3461 in Code Section 35-3-163.

3462 (c)(1) On and after July 1, 2007, any person who is placed on probation shall have a  
 3463 sample of his or her blood, an oral swab, or a sample obtained from a noninvasive

3464 procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification  
 3465 characteristics specific to the person if such person is convicted of a felony violation of:  
 3466 (A) Chapter 5 of Title 16;  
 3467 (B) Rape in violation of Code Section 16-6-1;  
 3468 (C) Sodomy or aggravated sodomy in violation of Code Section 16-6-2;  
 3469 (D) Statutory rape in violation of Code Section 16-6-3;  
 3470 (E) Child molestation or aggravated child molestation in violation of Code Section  
 3471 16-6-4;  
 3472 (F) Enticing a child for indecent purposes in violation of Code Section 16-6-5;  
 3473 (G) Sexual assault against persons in custody, sexual assault against a person detained  
 3474 or a patient in a hospital or other institution, or sexual assault by a practitioner of  
 3475 psychotherapy against a patient in violation of Code Section 16-6-5.1;  
 3476 (H) Bestiality in violation of Code Section 16-6-6;  
 3477 (I) Necrophilia in violation of Code Section 16-6-7;  
 3478 (J) Incest in violation of Code Section 16-6-22;  
 3479 (K) Burglary in violation of Code Section 16-7-1;  
 3480 (L) Robbery in violation of Code Section 16-8-40;  
 3481 (M) Armed robbery in violation of Code Section 16-8-41;  
 3482 (N) Impersonating a peace officer or public officer or employee in violation of Code  
 3483 Section 16-10-23;  
 3484 (O) Obstruction or hindering any law enforcement officer in violation of Code Section  
 3485 16-10-24;  
 3486 (P) Article 4 of Chapter 11 of Title 16; or  
 3487 (Q) Chapter 13 of Title 16.  
 3488 (2) The analysis shall be performed by the division. The division shall be authorized to  
 3489 contract with individuals or organizations for services to perform such analysis. The  
 3490 identification characteristics of the profile resulting from the DNA analysis shall be  
 3491 stored and maintained by the bureau in a DNA data bank and shall be made available  
 3492 only as provided in Code Section 35-3-163. The department shall be responsible for  
 3493 collecting such sample.  
 3494 35-3-161.  
 3495 (a) Each sample required pursuant to Code Section 35-3-160 from persons who are to be  
 3496 incarcerated shall be withdrawn within the first 30 days of incarceration at the receiving  
 3497 unit or at such other place as is designated by the department. Each sample required  
 3498 pursuant to Code Section 35-3-160 from persons who are to be released from a state  
 3499 correctional facility or private correctional facility shall be withdrawn within the 12 months

3500 preceding such person's release at a place designated by the department. The required  
3501 samples from persons who are not sentenced to a term of confinement shall be withdrawn  
3502 as a condition of probation. The division shall publish in its quality manuals the  
3503 procedures for the collection and transfer of samples to such division pursuant to Code  
3504 Section 35-3-154. Personnel at a department facility shall implement the provisions of this  
3505 Code section as part of the regular processing of offenders.

3506 (b) Samples collected by oral swab or by a noninvasive procedure may be collected by any  
3507 individual who has been trained in the procedure. Only a correctional health nurse  
3508 technician, physician, registered professional nurse, licensed practical nurse, graduate  
3509 laboratory technician, or phlebotomist shall withdraw any sample of blood to be submitted  
3510 for analysis. No civil liability shall attach to any person authorized to take a sample as  
3511 provided in this article as a result of the act of taking a sample from any person submitting  
3512 thereto, provided the sample was taken according to recognized medically accepted  
3513 procedures. However, no person shall be relieved from liability for negligence in the  
3514 withdrawing of any blood sample.

3515 (c) Chemically clean sterile disposable needles shall be used for the withdrawal of all  
3516 samples of blood. The containers for blood samples, oral swabs, and the samples obtained  
3517 by noninvasive procedures shall be sealed and labeled with the subject's name, social  
3518 security number, date of birth, race, and gender plus the name of the person collecting the  
3519 sample and the date and place of collection. The containers shall be secured to prevent  
3520 tampering with the contents. The steps set forth in this subsection relating to the taking,  
3521 handling, identification, and disposition of samples are procedural and not substantive.  
3522 Substantial compliance therewith shall be deemed to be sufficient. The samples shall be  
3523 transported to the division not more than 15 days following withdrawal and shall be  
3524 analyzed and stored in the DNA data bank in accordance with Code Sections 35-3-162 and  
3525 35-3-163.

3526 35-3-162.

3527 Whether or not the results of an analysis are to be included in the data bank, the bureau  
3528 shall conduct the DNA analysis in accordance with procedures adopted by the bureau to  
3529 determine identification characteristics specific to the individual whose sample is being  
3530 analyzed. The director of the bureau or his or her designated representative shall complete  
3531 and maintain on file a form indicating the name of the person whose sample is to be  
3532 analyzed, the date and by whom the sample was received and examined, and a statement  
3533 that the seal on the container containing the sample had not been broken or otherwise  
3534 tampered with. The remainder of a sample submitted for analysis and inclusion in the data  
3535 bank pursuant to Code Section 35-3-160 may be divided, if possible, labeled as provided

3536 for the original sample, and securely stored by the bureau in accordance with specific  
3537 procedures of the bureau to ensure the integrity and confidentiality of the samples. All or  
3538 part of the remainder of that sample may be used only to create a statistical data base  
3539 provided no identifying information on the individual whose sample is being analyzed is  
3540 included or for retesting by the bureau to validate or update the original analysis. A report  
3541 of the results of a DNA analysis conducted by the bureau as authorized, including the  
3542 identifying information, shall be made and maintained at the bureau. Except as specifically  
3543 provided in this Code section and Code Section 35-3-163, the results of the analysis shall  
3544 be securely stored and shall remain confidential.

3545 35-3-163.

3546 (a) It shall be the duty of the bureau to receive samples and to analyze, classify, and file  
3547 the results of DNA identification characteristics of samples submitted pursuant to Code  
3548 Section 35-3-160 and to make such information available as provided in this Code section.  
3549 The results of an analysis and comparison of the identification of the characteristics from  
3550 two or more biological samples shall be made available directly to federal, state, and local  
3551 law enforcement officers upon a request made in furtherance of an official investigation  
3552 of any criminal offense. A request may be made by personal contact, mail, or electronic  
3553 means. The name of the requestor and the purpose for which the information is requested  
3554 shall be maintained on file with the bureau.

3555 (b) Upon request from a prosecutor or law enforcement agency, the bureau may compare  
3556 a DNA profile from an analysis of a sample from a suspect in a criminal investigation  
3557 where the sample was obtained through a search warrant, consent of the suspect, court  
3558 order, or other lawful means to DNA profiles lawfully collected and maintained by the  
3559 bureau. The bureau shall not add a DNA profile of any such suspect to any DNA data bank  
3560 except upon conviction as provided in this article.

3561 (c)(1) Upon his or her request, a copy of the request for search shall be furnished to any  
3562 person identified and charged with an offense as the result of a search of information in  
3563 the data bank. Only when a sample or DNA profile supplied by the requestor  
3564 satisfactorily matches the requestor's profile in the data bank shall the existence of data  
3565 in the data bank be confirmed or identifying information from the data bank be  
3566 disseminated.

3567 (2) The name of the convicted offender whose profile is contained in the data bank may  
3568 be related to any other data bases which are constructed for law enforcement purposes  
3569 and may be disseminated only for law enforcement purposes.

3570 (3) Upon a showing by the accused in a criminal proceeding that access to the DNA data  
3571 bank is material to the investigation, preparation, or presentation of a defense at trial or

3572 in a motion for a new trial, a superior court having proper jurisdiction over such criminal  
3573 proceeding shall direct the bureau to compare a DNA profile which has been generated  
3574 by the accused through an independent test against the data bank, provided that such  
3575 DNA profile has been generated in accordance with standards for forensic DNA analysis  
3576 adopted pursuant to 42 U.S.C. Section 14131.

3577 (d) The bureau shall develop procedures governing the methods of obtaining information  
3578 from the data bank in accordance with this Code section and procedures for verification of  
3579 the identity and authority of the requestor. The bureau shall specify the positions in that  
3580 agency which require regular access to the data bank and samples submitted as a necessary  
3581 function of the job.

3582 (e) The bureau may create a separate statistical data base comprised of DNA profiles of  
3583 samples of persons whose identity is unknown. Nothing in this Code section or Code  
3584 Section 35-3-164 shall prohibit the bureau from sharing or otherwise disseminating the  
3585 information in the statistical data base with law enforcement or criminal justice agencies  
3586 within or outside this state.

3587 (f) The bureau may charge a reasonable fee to search and provide a comparative analysis  
3588 of DNA profiles in the data bank to any authorized law enforcement agency outside of this  
3589 state.

3590 35-3-164.

3591 (a) Any person who, without authority, disseminates information contained in the data  
3592 bank shall be guilty of a misdemeanor. Any person who disseminates, receives, or  
3593 otherwise uses or attempts to so use information in the data bank, knowing that such  
3594 dissemination, receipt, or use is for a purpose other than as authorized by law, shall be  
3595 guilty of a misdemeanor of a high and aggravated nature.

3596 (b) Except for purposes of law enforcement or as authorized by this article, any person  
3597 who, for purposes of having DNA analysis performed, obtains or attempts to obtain any  
3598 sample submitted to the division for analysis shall be guilty of a felony.

3599 35-3-165.

3600 A person whose DNA profile has been included in the data bank pursuant to this article  
3601 may request that it be expunged on the grounds that the conviction on which the authority  
3602 for including his or her DNA profile was based has been reversed and the case dismissed.  
3603 The bureau shall purge all records and identifiable information in the data bank pertaining  
3604 to the person and destroy all samples from the person upon receipt of a written request that  
3605 such data be expunged, pursuant to this Code section, and a certified copy of the court  
3606 order reversing and dismissing the conviction.

3607 **SECTION 47.**

3608 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
 3609 by revising paragraph (2) of Code Section 36-74-25, relating to powers of enforcement  
 3610 boards created on or after January 1, 2003, as follows:

3611 "(2) Subpoena alleged violators and witnesses to its hearings, with the approval of the  
 3612 court with jurisdiction over a criminal violator of the county or municipal code or  
 3613 ordinance. Subpoenas may be served by the sheriff, marshal, or police department of the  
 3614 county or by the police department of the municipality or by any other individual  
 3615 authorized by Code Section ~~24-10-23~~ 24-13-24 to serve subpoenas;"

3616 **SECTION 48.**

3617 Said title is further amended by revising paragraph (2) of Code Section 36-74-45, relating  
 3618 to powers of enforcement boards created prior to January 1, 2003, as follows:

3619 "(2) Subpoena alleged violators and witnesses to its hearings, with the approval of the  
 3620 court with jurisdiction over a criminal violator of the county or municipal code or  
 3621 ordinance. Subpoenas may be served by the sheriff, marshal, or police department of the  
 3622 county or by the police department of the municipality or by any other individual  
 3623 authorized by Code Section ~~24-10-23~~ 24-13-24 to serve subpoenas;"

3624 **SECTION 49.**

3625 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by  
 3626 revising subsections (b) and (c) of Code Section 37-3-166, relating to treatment of clinical  
 3627 records, when release is permitted, and scope of privileged communications, as follows:

3628 "(b) In connection with any hearing held under this chapter, any physician, including any  
 3629 psychiatrist, or any psychologist who is treating or who has treated the patient shall be  
 3630 authorized to give evidence as to any matter concerning the patient, including evidence as  
 3631 to communications otherwise privileged under Code Section ~~24-9-21, 24-9-40, 24-5-501,~~  
 3632 24-12-1, or 43-39-16.

3633 (c) Any disclosure authorized by this Code section or any unauthorized disclosure of  
 3634 confidential or privileged patient information or communications shall not in any way  
 3635 abridge or destroy the confidential or privileged character thereof, except for the purpose  
 3636 for which such authorized disclosure is made. Any person making a disclosure authorized  
 3637 by this Code section shall not be liable to the patient or any other person, notwithstanding  
 3638 any contrary provision of Code Section ~~24-9-21, 24-9-40, 24-5-501, 24-12-1,~~ or 43-39-16."

3639

**SECTION 50.**

3640 Said title is further amended by revising subsections (b) and (c) of Code Section 37-4-125,  
3641 relating to treatment of clinical records and scope of privileged communications, as follows:

3642 "(b) In connection with any hearing held under this chapter, any physician, including any  
3643 psychiatrist, or any psychologist who is treating or who has treated the client shall be  
3644 authorized to give evidence as to any matter concerning the client, including evidence as  
3645 to communications otherwise privileged under Code Section ~~24-9-21, 24-9-40, 24-5-501,~~  
3646 24-12-1, or 43-39-16.

3647 (c) Any disclosure authorized by this Code section or any unauthorized disclosure of  
3648 confidential or privileged client information or communications shall not in any way  
3649 abridge or destroy the confidential or privileged character thereof, except for the purpose  
3650 for which such authorized disclosure is made. Any person making a disclosure authorized  
3651 by subsection (a) of this Code section shall not be liable to the client or any other person,  
3652 notwithstanding any contrary provision of Code Section ~~24-9-21, 24-9-40, 24-5-501,~~  
3653 24-12-1, or 43-39-16."

3654

**SECTION 51.**

3655 Said title is further amended by revising subsections (b) and (c) of Code Section 37-7-166,  
3656 relating to maintenance, confidentiality, and release of clinical records and disclosure of  
3657 confidential or privileged patient information, as follows:

3658 "(b) In connection with any hearing held under this chapter, any physician, including any  
3659 psychiatrist, or any psychologist who is treating or who has treated the patient shall be  
3660 authorized to give evidence as to any matter concerning the patient, including evidence as  
3661 to communications otherwise privileged under Code Section ~~24-9-21, 24-9-40, 24-5-501,~~  
3662 24-12-1, or 43-39-16.

3663 (c) Any disclosure authorized by this Code section or any unauthorized disclosure of  
3664 confidential or privileged patient information or communications shall not in any way  
3665 abridge or destroy the confidential or privileged character thereof, except for the purpose  
3666 for which such authorized disclosure is made. Any person making a disclosure authorized  
3667 by this Code section shall not be liable to the patient or any other person, notwithstanding  
3668 any contrary provision of Code Section ~~24-9-21, 24-9-40, 24-5-501, 24-12-1,~~ or 43-39-16."

3669

**SECTION 52.**

3670 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
3671 amended by revising subsection (b) of Code Section 40-2-74, relating to special license  
3672 plates for persons with disabilities, as follows:

3673 "(b) A hearing impaired person otherwise qualified under this subsection shall be eligible  
 3674 to have issued to him or her a specially designated disabled person's license plate in  
 3675 accordance with this Code section. As used in this Code section, 'hearing impaired person'  
 3676 shall have the same meaning as defined in Code Section ~~24-9-101~~ 24-6-651, except that  
 3677 the term 'hearing impaired person' shall not include any person who is not qualified for a  
 3678 driver's license pursuant to Code Section 40-5-35, ~~relating to reports by physicians and~~  
 3679 ~~vision specialists in connection with the issuance or revocation of drivers' licenses, as now~~  
 3680 ~~or hereafter amended.~~ For purposes of this subsection, presentation of an identification  
 3681 card for persons with disabilities issued pursuant to Article 8 of Chapter 5 of this title shall  
 3682 constitute proof of hearing impairment."

3683

### SECTION 53.

3684 Said title is further amended by revising paragraph (1) of subsection (d) of Code Section  
 3685 40-5-2, relating to keeping of records of applications for licenses and information on  
 3686 licensees, as follows:

3687 "(d)(1) The commissioner shall designate members of the department to be the official  
 3688 custodians of the records of the department. No disclosure or release of operating records  
 3689 or personal information shall be made without the signed written approval of a designated  
 3690 custodian; except that such approval shall not be required for any release or disclosure  
 3691 through the GeorgiaNet Division of the Georgia Technology Authority pursuant to the  
 3692 signed written consent of the driver, provided that any such signed written consent shall  
 3693 be retained for a period of not less than four years by the party requesting the  
 3694 information; and except that such approval shall not be required for any release or  
 3695 disclosure of information made electronically through the GeorgiaNet Division of the  
 3696 Georgia Technology Authority in accordance with a contract authorized by subparagraph  
 3697 (c)(1)(B) of this Code section. The custodians may certify copies or compilations,  
 3698 including extracts thereof, of the records of the department. ~~When so certified, such~~  
 3699 ~~records shall be admissible as evidence in any civil or criminal proceeding as proof of the~~  
 3700 ~~contents thereof."~~

3701

### SECTION 54.

3702 Said title is further amended by revising subsection (d) of Code Section 40-5-58, relating to  
 3703 habitual violators, as follows:

3704 "(d) Notwithstanding any contrary provisions of Code Section 17-7-95 or 24-4-410, for the  
 3705 purposes of this Code section, any plea of nolo contendere entered and accepted after  
 3706 January 1, 1976, shall be considered a conviction."

3707 **SECTION 55.**

3708 Said title is further amended by revising subsection (d) of Code Section 40-6-10, relating to  
 3709 insurance requirements for operation of motor vehicles generally, as follows:

3710 "(d) Except for vehicles insured under a fleet policy as defined in Code Section 40-2-137  
 3711 or under a plan of self-insurance approved by the Commissioner of Insurance, insurance  
 3712 coverage information from records of the department shall be prima-facie evidence of the  
 3713 facts stated therein and shall be admissible as evidence in accordance with Code Section  
 3714 ~~24-3-17~~ 24-9-924 for the purposes of this Code section."

3715 **SECTION 56.**

3716 Said title is further amended by revising paragraph (1) of subsection (d) of Code Section  
 3717 40-6-11, relating to insurance requirements for operation of motorcycles, as follows:

3718 "(d)(1) Insurance coverage information from records of the department shall be  
 3719 prima-facie evidence of the facts stated therein and shall be admissible as evidence in  
 3720 accordance with Code Section ~~24-3-17~~ 24-9-924 for the purposes of this Code section."

3721 **SECTION 57.**

3722 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
 3723 by revising Code Section 42-6-4, relating to the effect of failure to meet time limit for trial  
 3724 after delivery of inmate pursuant to Code Section 24-10-60, as follows:

3725 "42-6-4.

3726 If an inmate is not brought to trial upon a pending indictment or accusation within two  
 3727 terms of court after delivery of the inmate to the sheriff or a deputy sheriff pursuant to  
 3728 subsection (a) of Code Section ~~24-10-60~~ 24-13-60, provided no continuance has been  
 3729 granted, all detainers based upon the pending indictments or accusations shall be stricken  
 3730 and dismissed from the records of the department."

3731 **SECTION 58.**

3732 Said title is further amended by revising subsection (a) of Code Section 42-6-5, relating to  
 3733 the temporary custody of inmate requesting disposition of pending indictment or accusation,  
 3734 as follows:

3735 "(a) In response to the request of an inmate for final disposition of any pending indictment  
 3736 or accusation made pursuant to Code Section 42-6-3 or pursuant to an order of a court  
 3737 entered pursuant to subsection (a) of Code Section ~~24-10-60~~ 24-13-60, the department shall  
 3738 offer to deliver temporary custody of the inmate to the sheriff or a deputy sheriff of the  
 3739 county in which the indictment or accusation is pending against the inmate. The judge of  
 3740 the court in which the proceedings are pending is authorized to and shall issue an ex parte

3741 order directed to the department requiring the delivery of the inmate to the sheriff or a  
3742 deputy sheriff of the county in which the trial is to be held."

3743 **SECTION 59**

3744 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,  
3745 is amended by revising paragraph (5) of subsection (b) of Code Section 43-3-24, relating to  
3746 issuance of permits to practice accountancy, as follows:

3747 "(5) An individual qualifying for the practice privilege under paragraph (1) of this  
3748 subsection may provide expert witness services in this state and shall be deemed to be in  
3749 compliance with ~~paragraph (1) of subsection (c) of Code Section 24-9-67.1~~ 24-7-702 for  
3750 purposes of such services."

3751 **SECTION 60.**

3752 Said title is further amended by revising Code Section 43-6-6, relating to The Georgia  
3753 Auctioneers Commission seal and receipt of copies of records and papers as evidence, as  
3754 follows:

3755 "43-6-6.

3756 The commission shall adopt a seal, which may be either an engraved or ink stamp seal,  
3757 with the words 'State Auctioneers Commission, State of Georgia' and such other devices  
3758 as the commission may desire included thereon, by which it shall authenticate the acts of  
3759 the commission. ~~Copies of all records and papers in the office of the commission certified  
3760 by the signature of the commission chairman and the seal of the commission shall be  
3761 received in evidence in all cases equally and with like effect as the originals."~~

3762 **SECTION 61.**

3763 Said title is further amended by revising paragraph (11) of subsection (a) of Code Section  
3764 43-9-12, relating to The Georgia Board of Chiropractic Examiners' refusal, suspension, or  
3765 revocation of licenses, as follows:

3766 "(11)(A) Become unable to practice chiropractic with reasonable skill and safety to  
3767 patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other  
3768 type of material, or as a result of any mental or physical condition.

3769 (B) In enforcing this paragraph, the board may, upon reasonable grounds, require a  
3770 licensee or applicant to submit to a mental or physical examination by licensed health  
3771 care providers designated by the board. The results of such examination shall be  
3772 admissible in any hearing before the board, notwithstanding any claim of privilege  
3773 under a contrary rule of law or statute, including, but not limited to, Code Section  
3774 ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of practicing

3775 chiropractic in this state or who shall file an application for a license to practice  
 3776 chiropractic in this state shall be deemed to have given his or her consent to submit to  
 3777 such mental or physical examination and to have waived all objections to the  
 3778 admissibility of the results in any hearing before the board, upon the grounds that the  
 3779 same constitutes a privileged communication. If a licensee or applicant fails to submit  
 3780 to such an examination when properly directed to do so by the board, unless such  
 3781 failure was due to circumstances beyond his or her control, the board may enter a final  
 3782 order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant  
 3783 who is prohibited from practicing chiropractic under this paragraph shall at reasonable  
 3784 intervals be afforded an opportunity to demonstrate to the board that he or she can  
 3785 resume or begin the practice of chiropractic with reasonable skill and safety to patients.  
 3786 (C) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain  
 3787 any and all records relating to the mental or physical condition of a licensee or  
 3788 applicant, including psychiatric records; and such records shall be admissible in any  
 3789 hearing before the board, notwithstanding any privilege under a contrary rule of law or  
 3790 statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person  
 3791 who shall accept the privilege of practicing chiropractic in this state or who shall file  
 3792 an application to practice chiropractic in this state shall be deemed to have given his or  
 3793 her consent to the board's obtaining any such records and to have waived all objections  
 3794 to the admissibility of such records in any hearing before the board, upon the grounds  
 3795 that the same constitutes a privileged communication.  
 3796 (D) If any licensee or applicant could, in the absence of this paragraph, invoke a  
 3797 privilege to prevent the disclosure of the results of the examination provided for in  
 3798 subparagraph (B) of this paragraph or the records relating to the mental or physical  
 3799 condition of such licensee or applicant obtained pursuant to subparagraph (C) of this  
 3800 paragraph, all such information shall be received by the board in camera and shall not  
 3801 be disclosed to the public, nor shall any part of the record containing such information  
 3802 be used against any licensee or applicant in any other type of proceeding."

### 3803 **SECTION 62.**

3804 Said title is further amended by revising Code Section 43-11-12, relating to public inspection  
 3805 of the Georgia Board of Dentistry's records, as follows:

3806 "43-11-12.

3807 It shall be the duty of the division director to keep at his or her office the minutes of the  
 3808 board, together with all the books and records of the board, which books and records shall,  
 3809 except as provided in subsection (k) of Code Section 43-1-2, be public records open to  
 3810 inspection by the public except on Sundays and legal holidays. ~~A copy of all or any part~~

3811 ~~of any record or book certified by the division director, with the seal of the board attached,~~  
 3812 ~~shall be primary evidence in any court, and it shall be the duty of the division director to~~  
 3813 ~~furnish to any person making application therefor a copy of any part or all of any record~~  
 3814 ~~or book of the board upon the applicant's paying a fee prescribed by the division director.~~  
 3815 ~~All of such copies shall be certified by the division director and be under the seal of the~~  
 3816 ~~board."~~

3817 **SECTION 63.**

3818 Said title is further amended by revising Code Section 43-18-8, relating to official records  
 3819 and affidavits of the State Board of Registration for Professional Geologists as evidence, as  
 3820 follows:

3821 "43-19-8.

3822 ~~All official records of the board, or affidavits by the division director as to the content of~~  
 3823 ~~such records, shall be prima-facie evidence of all matters required to be kept therein~~  
 3824 Reserved."

3825 **SECTION 64.**

3826 Said title is further amended by revising Code Section 43-23-3, relating to the seal of the  
 3827 Georgia Board of Landscape Architects and copies of records and papers as evidence, as  
 3828 follows:

3829 "43-23-3.

3830 (a) The board shall adopt a seal, which may be either an engraved or an ink stamped seal,  
 3831 with the words 'Board of Landscape Architects, State of Georgia' or such other device as  
 3832 the board may desire included thereon, by which it shall authenticate the acts of the board.  
 3833 (b) ~~Copies of all records and papers in the office of the board, certified by the signature~~  
 3834 ~~of the chairman of the board, shall be received in evidence in all cases equally and with like~~  
 3835 ~~effect as the originals."~~

3836 **SECTION 65.**

3837 Said title is further amended by revising Code Section 43-28-6, relating to service of process  
 3838 and documents on division director and records of the State Board of Occupational Therapy  
 3839 as prima-facie evidence, as follows:

3840 "43-28-6.

3841 (a) All legal process and all documents required by law to be served upon or filed with the  
 3842 board shall be served upon or filed with the division director at his or her office.

3843 ~~(b) All official records of the board or affidavits by the division director certifying the~~  
 3844 ~~content of such records shall be prima-facie evidence of all matters required to be kept~~  
 3845 ~~therein."~~

3846 **SECTION 66.**

3847 Said title is further amended by revising Code Section 43-29-4, relating to the State Board  
 3848 of Dispensing Opticians' records and seal, as follows:

3849 "43-29-4.

3850 (a) The board shall have an official seal and shall keep a record of its proceedings and a  
 3851 register of persons whose licenses have been revoked.

3852 (b) The records of the board shall be open to public inspection, and it shall keep on file all  
 3853 examination papers for a period of 90 days after each examination. ~~A transcript of an entry~~  
 3854 ~~in such records, certified by the division director under the seal of the board, shall be~~  
 3855 ~~evidence of the facts stated therein."~~

3856 **SECTION 67.**

3857 Said title is further amended by revising Code Section 43-33-9, relating to the State Board  
 3858 of Physical Therapy's records as prima-facie evidence, as follows:

3859 "43-33-9.

3860 The division director shall be secretary of the board and shall perform such other  
 3861 administrative duties as may be prescribed by the board. In a contested case, the division  
 3862 director on behalf of the board shall have the power to subpoena, throughout ~~the~~ this state,  
 3863 witnesses, designated documents, papers, books, accounts, letters, photographs, objects,  
 3864 or other tangible things. All legal process and all documents required by law to be served  
 3865 upon or filed with the board shall be served upon or filed with the division director at his  
 3866 or her office in Atlanta. ~~All official records of the board or affidavits by the division~~  
 3867 ~~director certifying the content of such records shall be prima-facie evidence of all matters~~  
 3868 ~~required to be kept therein."~~

3869 **SECTION 68.**

3870 Said title is further amended by revising paragraph (2) of subsection (a) of Code Section  
 3871 43-33-18, relating to refusal to grant or restore licenses, as follows:

3872 "(2) Displayed an inability or has become unable to practice as a physical therapist or as  
 3873 a physical therapist assistant with reasonable skill and safety to patients by reason of  
 3874 illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a  
 3875 result of any mental or physical condition:

3876 (A) In enforcing this paragraph the board may, upon reasonable grounds, require a  
3877 licensee or applicant to submit to a mental or physical examination by an appropriate  
3878 practitioner of the healing arts designated by the board. The expense of such mental or  
3879 physical examination shall be borne by the licensee or applicant. The results of such  
3880 examination shall be admissible in any hearing before the board, notwithstanding any  
3881 claim of privilege under a contrary rule of law or statute, including, but not limited to  
3882 Code Section ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of  
3883 practicing physical therapy in this state or who shall file an application for a license to  
3884 practice physical therapy in this state shall be deemed to have given his or her consent  
3885 to submit to such mental or physical examination and to have waived all objections to  
3886 the admissibility of the results in any hearing before the board upon the grounds that  
3887 the same constitutes a privileged communication. If a licensee or applicant fails to  
3888 submit to such an examination when properly directed to do so by the board, unless  
3889 such failure was due to circumstances beyond his or her control, the board may enter  
3890 a final order upon proper notice, hearing, and proof of such refusal. Any licensee or  
3891 applicant who is prohibited from practicing physical therapy under this paragraph shall  
3892 at reasonable intervals be afforded an opportunity to demonstrate to the board that he  
3893 or she can resume or begin the practice of physical therapy with reasonable skill and  
3894 safety to patients;

3895 (B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain  
3896 any and all records relating to the mental or physical condition of a licensee or  
3897 applicant, including psychiatric records; and such records shall be admissible in any  
3898 hearing before the board, notwithstanding any privilege under a contrary rule of law or  
3899 statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person  
3900 who shall accept the privilege of practicing physical therapy in this state or who shall  
3901 file an application to practice physical therapy in this state shall be deemed to have  
3902 given his or her consent to the board's obtaining any such records and to have waived  
3903 all objections to the admissibility of such records in any hearing before the board upon  
3904 the grounds that the same constitute a privileged communication; and

3905 (C) If any licensee or applicant could, in the absence of this paragraph, invoke a  
3906 privilege to prevent the disclosure of the results of the examination provided for in  
3907 subparagraph (A) of this paragraph or the records relating to the mental or physical  
3908 condition of such licensee or applicant obtained pursuant to subparagraph (B) of this  
3909 paragraph, all such information shall be received by the board in camera and shall not  
3910 be disclosed to the public, nor shall any part of the record containing such information  
3911 be used against any licensee or applicant in any other type of proceeding;"

**SECTION 69.**

3912  
 3913 Said title is further amended by revising paragraph (13) of subsection (a) of Code Section  
 3914 43-34-37, relating to the Composite State Board of Medical Examiners' authority to refuse  
 3915 license or discipline physicians, as follows:

3916     “(13) Become unable to practice medicine with reasonable skill and safety to patients by  
 3917 reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of  
 3918 material, or as a result of any mental or physical condition:

3919     (A) In enforcing this paragraph the board may, upon reasonable grounds, require a  
 3920 licensee or applicant to submit to a mental or physical examination by physicians  
 3921 designated by the board. The results of such examination shall be admissible in any  
 3922 hearing before the board, notwithstanding any claim of privilege under a contrary rule  
 3923 of law or statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every  
 3924 person who shall accept the privilege of practicing medicine in this state or who shall  
 3925 file an application for a license to practice medicine in this state shall be deemed to  
 3926 have given his or her consent to submit to such mental or physical examination and to  
 3927 have waived all objections to the admissibility of the results in any hearing before the  
 3928 board, upon the grounds that the same constitutes a privileged communication. If a  
 3929 licensee or applicant fails to submit to such an examination when properly directed to  
 3930 do so by the board, unless such failure was due to circumstances beyond his or her  
 3931 control, the board may enter a final order upon proper notice, hearing, and proof of such  
 3932 refusal. Any licensee or applicant who is prohibited from practicing medicine under  
 3933 this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate  
 3934 to the board that he or she can resume or begin the practice of medicine with reasonable  
 3935 skill and safety to patients;

3936     (B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain  
 3937 any and all records relating to the mental or physical condition of a licensee or  
 3938 applicant, including psychiatric records; and such records shall be admissible in any  
 3939 hearing before the board, notwithstanding any privilege under a contrary rule of law or  
 3940 statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person  
 3941 who shall accept the privilege of practicing medicine in this state or who shall file an  
 3942 application to practice medicine in this state shall be deemed to have given his or her  
 3943 consent to the board's obtaining any such records and to have waived all objections to  
 3944 the admissibility of such records in any hearing before the board, upon the grounds that  
 3945 the same constitute a privileged communication; and

3946     (C) If any licensee or applicant could, in the absence of this paragraph, invoke a  
 3947 privilege to prevent the disclosure of the results of the examination provided for in  
 3948 subparagraph (A) of this paragraph or the records relating to the mental or physical

3949 condition of such licensee or applicant obtained pursuant to subparagraph (B) of this  
 3950 paragraph, all such information shall be received by the board in camera and shall not  
 3951 be disclosed to the public, nor shall any part of the record containing such information  
 3952 be used against any licensee or applicant in any other type of proceeding."

### 3953 **SECTION 70.**

3954 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section  
 3955 43-34-246, relating to the authority of the Composite State Board of Medical Examiners in  
 3956 relation to cosmetic laser services, as follows:

3957 "(1) Displayed an inability or has become unable to practice as a cosmetic laser  
 3958 practitioner with reasonable skill and safety to consumers by reason of illness, use of  
 3959 alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any  
 3960 mental or physical condition:

3961 (A) In enforcing this paragraph the board may, upon reasonable grounds, require a  
 3962 licensee or applicant to submit to a mental or physical examination by an appropriate  
 3963 practitioner of the healing arts designated by the board. The expense of such mental or  
 3964 physical examination shall be borne by the licensee or applicant. The results of such  
 3965 examination shall be admissible in any hearing before the board, notwithstanding any  
 3966 claim of privilege under a contrary rule of law or statute, including, but not limited to,  
 3967 Code Section ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of  
 3968 practicing cosmetic laser services in this state or who shall file an application for a  
 3969 license to provide cosmetic laser services in this state shall be deemed to have given his  
 3970 or her consent to submit to such mental or physical examination and to have waived all  
 3971 objections to the admissibility of the results in any hearing before the board upon the  
 3972 grounds that the same constitutes a privileged communication. If a licensee or  
 3973 applicant fails to submit to such an examination when properly directed to do so by the  
 3974 board, unless such failure was due to circumstances beyond his or her control, the board  
 3975 may enter a final order upon proper notice, hearing, and proof of such refusal. Any  
 3976 licensee or applicant who is prohibited from practicing cosmetic laser services under  
 3977 this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate  
 3978 to the board that he or she can resume or begin the practice of cosmetic laser  
 3979 practitioner with reasonable skill and safety to consumers;

3980 (B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain  
 3981 any and all records relating to the mental or physical condition of a licensee or  
 3982 applicant, including psychiatric records; and such records shall be admissible in any  
 3983 hearing before the board, notwithstanding any privilege under a contrary rule of law or  
 3984 statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person

3985 who shall accept the privilege of practicing as a cosmetic laser practitioner in this state  
 3986 or who shall file an application to practice cosmetic laser services in this state shall be  
 3987 deemed to have given his or her consent to the board's obtaining any such records and  
 3988 to have waived all objections to the admissibility of such records in any hearing before  
 3989 the board upon the grounds that the same constitute a privileged communication; and  
 3990 (C) If any licensee or applicant could, in the absence of this paragraph, invoke a  
 3991 privilege to prevent the disclosure of the results of the examination provided for in  
 3992 subparagraph (A) of this paragraph or the records relating to the mental or physical  
 3993 condition of such licensee or applicant obtained pursuant to subparagraph (B) of this  
 3994 paragraph, all such information shall be received by the board in camera and shall not  
 3995 be disclosed to the public, nor shall any part of the record containing such information  
 3996 be used against any licensee or applicant in any other type of proceeding;"

3997

### SECTION 71.

3998 Said title is further amended by revising subsection (a) of Code Section 43-40-6, relating to  
 3999 the seal and records of the Georgia Real Estate Commission, as follows:

4000 "(a) The commission shall adopt a seal, which may be either an engraved or ink stamp seal,  
 4001 with the words 'State Real Estate Commission, State of Georgia,' and such other device as  
 4002 the commission may desire included thereon, by which it shall authenticate the acts of the  
 4003 commission. ~~Copies of all records and papers in the office of the commission, certified by~~  
 4004 ~~the signature of the real estate commissioner or the commissioner's designee and the seal~~  
 4005 ~~of the commission, shall be received in evidence in all cases equally and with like effect~~  
 4006 ~~as the originals."~~

4007

### SECTION 72.

4008 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by  
 4009 revising Code Section 44-2-5, relating to recording execution and deed after sheriff's sale and  
 4010 evidence of execution where original is lost, as follows:

4011 "44-2-5.

4012 A purchaser at a sheriff's sale may have the execution under which the property was sold  
 4013 recorded with his or her deed together with all the entries on the execution. ~~In the event~~  
 4014 ~~of the loss or destruction of the original execution, a copy of the record shall be admitted~~  
 4015 ~~in evidence."~~

**SECTION 73.**

4016

4017 Said title is further amended by revising Code Section 44-2-20, relating to recorded affidavits  
4018 relating to land as notice of facts cited therein and the admissibility of such affidavits in  
4019 evidence, as follows:

4020 "44-2-20.

4021 (a) Recorded affidavits shall be notice of the facts therein recited, whether taken at the  
4022 time of a conveyance of land or not, where such affidavits show:

4023 (1) The relationship of parties or other persons to conveyances of land;

4024 (2) The relationship of any parties to any conveyance with other parties whose names are  
4025 shown in the chain of title to lands;

4026 (3) The age or ages of any person or persons connected with the chain of title;

4027 (4) Whether the land embraced in any conveyance or any part of such land or right  
4028 therein has been in the actual possession of any party or parties connected with the chain  
4029 of title;

4030 (5) The payment of debts of an unadministered estate;

4031 (6) The fact or date of death of any person connected with such title;

4032 (7) Where such affidavits relate to the identity of parties whose names may be shown  
4033 differently in chains of title;

4034 (8) Where such affidavits show the ownership or adverse possession of lands or that  
4035 other persons have not owned such lands nor been in possession of same; or

4036 (9) Where such affidavits state any other fact or circumstance affecting title to land or  
4037 any right, title, interest in, or lien or encumbrance upon land.

4038 Any such affidavits may be made by any person, whether connected with the chain of title  
4039 or not.

4040 ~~(b) In any litigation over any of the lands referred to and described in any of the affidavits~~  
4041 ~~referred to in subsection (a) of this Code section in any court in this state or in any~~  
4042 ~~proceedings in any such court involving the title to such lands wherein the facts recited in~~  
4043 ~~such affidavits may be material, the affidavits or certified copies of the record thereof shall~~  
4044 ~~be admissible in evidence and there shall be a rebuttable presumption that the statements~~  
4045 ~~in said affidavits are true. The affidavits or certified copies thereof shall only be admissible~~  
4046 ~~as evidence in the event the parties making the affidavits are deceased; they are~~  
4047 ~~nonresidents of the state; their residences are unknown to the parties offering the affidavits;~~  
4048 ~~or they are too old, infirm, or sick to attend court Reserved.~~

4049 (c) Affidavits referred to in subsections subsection (a) ~~and (b)~~ of this Code section shall  
4050 be filed by the clerk of the superior court of the county where the land is located and shall  
4051 contain a caption referring to the current owner and to a deed or other recorded instrument  
4052 in the chain of title of the affected land. The clerk of the superior court shall record such

4053 affidavits, shall enter on the deed or other recorded instrument so referred to the book and  
 4054 page number on which such affidavit may be recorded, and shall index same in the name  
 4055 of the purported owner as shown by such caption in both grantor and grantee indexes in  
 4056 deed records as conveyances of lands are recorded and indexed; and ~~he~~ the clerk shall  
 4057 receive the same compensation therefor as for recording deeds to lands."

#### 4058 SECTION 74.

4059 Said title is further amended by revising Code Section 44-2-23, relating to when deed serves  
 4060 as evidence, as follows:

4061 "44-2-23.

4062 ~~A recorded deed shall be admitted in evidence in any court without further proof unless the~~  
 4063 ~~maker of the deed, one of his heirs, or the opposite party in the action files an affidavit that~~  
 4064 ~~the deed is a forgery to the best of his knowledge and belief. Upon the filing of the~~  
 4065 ~~affidavit, the genuineness of the alleged deed shall become an issue to be determined in the~~  
 4066 ~~action~~ Reserved."

#### 4067 SECTION 75.

4068 Said title is further amended by revising Code Section 44-2-101, relating to referral of case  
 4069 to examiner, as follows:

4070 "44-2-101.

4071 Upon the filing of a petition as provided in this article, the clerk shall at once notify the  
 4072 judge who shall refer the action to one of the general examiners or to a special examiner.  
 4073 It shall then become the duty of the examiner to make up a preliminary report containing  
 4074 an abstract of the title to the land from public records and all other evidence of a  
 4075 trustworthy nature that can reasonably be obtained by ~~him~~ the examiner, which abstract  
 4076 shall contain:

- 4077 (1) Extracts from the records and other matters referred to therein which are complete  
 4078 enough to enable the court to decide the questions involved;  
 4079 (2) A statement of the facts relating to the possession of the lands; and  
 4080 (3) The names and addresses, so far as the examiner is able to ascertain, of all persons  
 4081 interested in the land as well as all adjoining owners showing their several apparent or  
 4082 possible interests and indicating upon whom and in what manner process should be  
 4083 served or notices given in accordance with this article.

4084 The preliminary report of the examiner shall be filed in the office of the clerk of the  
 4085 superior court on or before the return day of the court as stated in the process unless the  
 4086 time for filing the report is extended by the court. ~~The report shall be prima-facie evidence~~  
 4087 ~~of the contents thereof."~~

4088 **SECTION 76.**

4089 Said title is further amended by revising Code Section 44-4-3, relating to the duty of  
 4090 surveyors and processioners, as follows:

4091 "44-4-3.

4092 It shall be the duty of the county surveyor and the processioners to take all due precautions  
 4093 to arrive at the true lines and to trace out and plainly mark the same. The surveyor shall  
 4094 make out and certify a plat of the true lines and deliver a copy thereof to the applicant; and,  
 4095 in all future boundary disputes with any owner of adjoining lands who had due notice of  
 4096 the processioning, the certified plat and the lines so marked shall be prima facie correct;  
 4097 ~~and the certified plat shall be admissible in evidence without further proof."~~

4098 **SECTION 77.**

4099 Said title is further amended by revising Code Section 44-4-6, relating to general reputation  
 4100 as evidence, as follows:

4101 "44-4-6.

4102 ~~General reputation in the neighborhood shall be evidence as to ancient landmarks of more~~  
 4103 ~~than 30 years' standing.~~ Acquiescence for seven years by acts or declarations of adjoining  
 4104 landowners shall establish a dividing line."

4105 **SECTION 78.**

4106 Said title is further amended by revising Code Section 44-5-45, relating to when ancient deed  
 4107 admissible without proof of execution, as follows:

4108 "44-5-45.

4109 ~~A deed more than 30 years old which, upon inspection, has the appearance of genuineness~~  
 4110 ~~and which comes from the proper custody is admissible in evidence without proof of~~  
 4111 ~~execution if possession of the property has been consistent with such deed~~ Reserved."

4112 **SECTION 79.**

4113 Said title is further amended by revising Code Section 44-13-11, relating to approval of  
 4114 application and transmittal of copy of exempted real property to other counties, as follows:

4115 "44-13-11.

4116 If, at the time and place appointed for passing upon the application, no objection is raised  
 4117 by any creditor of the applicant, the judge of the probate court shall endorse upon the  
 4118 schedule and upon the plat: 'Approved this the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,' filling the  
 4119 blanks, and shall sign the schedule and plat officially and hand ~~them~~ such application to the  
 4120 clerk of the superior court of ~~his~~ the clerk's county; and, when land out of ~~his~~ the clerk's  
 4121 county is exempted, the judge shall transmit a certified copy of the exempted real property

4122 to the clerk of the superior court of each county in which exempted land is located. Each  
 4123 clerk of the superior court of a county in which exempted land is located shall record the  
 4124 exempted real property in a book to be kept for that purpose in his office, which record or  
 4125 a certified transcript thereof shall be competent evidence in all the courts of this state."

4126 **SECTION 80.**

4127 Said title is further amended by revising Code Section 44-14-38, relating to admission of  
 4128 mortgages into evidence, as follows:

4129 "44-14-38.

4130 ~~When duly executed and recorded, mortgages shall be admitted into evidence under the~~  
 4131 ~~same rules as recorded deeds~~ Reserved."

4132 **SECTION 81.**

4133 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
 4134 is amended by revising Code Section 45-9-1, relating to general provisions and disclosure  
 4135 or insurance or indemnification in legal actions, as follows:

4136 "45-9-1.

4137 (a) In addition to any other compensation which may be paid to an officer, official, or  
 4138 employee of any agency, board, bureau, commission, department, or authority of the  
 4139 executive, judicial, or legislative branch of government of this state, each such agency,  
 4140 board, bureau, commission, department, or authority is authorized, in its discretion, to  
 4141 purchase policies of liability insurance or contracts of indemnity or to formulate sound  
 4142 programs of self-insurance utilizing funds available to such agency, board, bureau,  
 4143 commission, department, or authority, insuring or indemnifying such officers, officials, or  
 4144 employees to the extent that they are not immune from liability against personal liability  
 4145 for damages arising out of the performance of their duties or in any way connected  
 4146 therewith. Such policies of liability insurance, contracts of indemnity, or programs of  
 4147 self-insurance may also provide for reimbursement to an officer, official, or employee of  
 4148 any agency, board, bureau, commission, department, or authority of ~~the~~ this state for  
 4149 reasonable legal fees and other expenses incurred in the successful defense of any criminal  
 4150 proceeding, including, but not limited to, any criminal cause of action, suit, investigation,  
 4151 subpoena, warrant, request for documentation or property, or threat of such action whether  
 4152 formal or informal where such action arises out of the performance of his or her official  
 4153 duties. In addition, in the case of an officer, official, or employee who is required to  
 4154 maintain a professional license, such reimbursement may also be provided for legal fees  
 4155 and other expenses so incurred in the successful defense of a charge arising out of the  
 4156 performance of his or her official duties in proceedings before a professional licensing

4157 board, disciplinary board or commission, or other similar body. Legal fees and other  
 4158 expenses shall be subject to adjustment by and the approval of the Attorney General.

4159 (b) Such agencies, boards, bureaus, commissions, departments, or authorities may expend  
 4160 federal and state or other available funds for such purposes. The amount of such insurance  
 4161 or indemnity shall also be in the discretion of such agency, board, bureau, commission,  
 4162 department, or authority.

4163 (c) For the purpose of this article, the term 'agency' shall specifically include, but shall not  
 4164 be limited to, public retirement systems of state-wide application established by the laws  
 4165 of this state, but shall not include counties or municipalities; provided, however, that the  
 4166 employees of community service boards, county departments of health, and county  
 4167 departments of family and children services as well as the members of the boards of said  
 4168 departments shall be considered to be state employees or officials for the purpose of this  
 4169 article. In order to facilitate the administration of liability coverage or other insurance  
 4170 coverages provided the community service boards, county departments of health, and  
 4171 county departments of family and children services, the Department of Human Resources  
 4172 ~~must~~ shall designate a central office which will be responsible for obtaining, submitting,  
 4173 and collecting all underwriting information and insurance premiums requested and assessed  
 4174 by the Department of Administrative Services.

4175 ~~(d) The existence of such insurance or indemnification shall not be disclosed or suggested~~  
 4176 ~~in any action brought against such individual."~~

4177 **SECTION 82.**

4178 Said title is further amended by revising Code Section 45-9-20, relating to authorization of  
 4179 purchase of insurance, as follows:

4180 "45-9-20.

4181 In addition to any other compensation which may be paid to members of the governing  
 4182 bodies of municipalities, counties, and other public bodies, and to supervisors,  
 4183 administrators, employees, or other elected or appointed public officers, each municipality,  
 4184 county, and other public body of this state is authorized, in its discretion, to purchase  
 4185 policies of liability insurance or contracts of indemnity insuring or indemnifying the  
 4186 members of such governing bodies and such supervisors, administrators, employees, or  
 4187 other elected or appointed officers against personal liability for damages arising out of the  
 4188 performance of their duties or in any way connected therewith, whether based upon  
 4189 negligence, violation of contract rights, or violation of civil, constitutional, common law,  
 4190 or other statutory rights, whether state, federal, or local. Such municipalities, counties, and  
 4191 other public bodies may expend state, federal, and local funds for such purposes. The  
 4192 amount of such insurance or indemnity shall also be in the discretion of the governing body

4193 of such municipality, county, or other public body. No action shall be maintained against  
 4194 the person or company issuing such insurance or contracting for such indemnity until final  
 4195 judgment has first been entered against the individual covered by such policy or contract;  
 4196 ~~and the existence of such insurance or indemnity shall not be disclosed or suggested in any~~  
 4197 ~~action brought against such individual."~~

### 4198 SECTION 83.

4199 Said title is further amended by revising Code Section 45-14-5, relating to the Commissioner  
 4200 of Insurance, Safety Fire Commissioner, Industrial Loan Commissioner, and the Comptroller  
 4201 General's seal and sealed copies treated as originals, as follows:

4202 "45-14-5.

4203 The Commissioner of Insurance, Safety Fire Commissioner, Industrial Loan  
 4204 Commissioner, and the Comptroller General shall have an official seal for each office of  
 4205 such design as he or she shall select with the approval of the Governor. ~~Every certificate~~  
 4206 ~~and other document or paper executed by the Commissioner of Insurance, Safety Fire~~  
 4207 ~~Commissioner, Industrial Loan Commissioner, or the Comptroller General in the pursuance~~  
 4208 ~~of any authority conferred upon that office by law and sealed with the seal of that office~~  
 4209 ~~and all copies or photographic copies of papers certified by him and authenticated by said~~  
 4210 ~~seal shall in all cases be evidence 'in equal and like manner' as the original thereof and in~~  
 4211 ~~all cases be primary evidence of the contents of the original and shall be admissible in any~~  
 4212 ~~court in this state."~~

### 4213 SECTION 84.

4214 Said title is further amended by revising Code Section 45-16-43, relating to receipt as  
 4215 evidence of records, findings, and reports of medical examiners' inquiries, as follows:

4216 "45-16-43.

4217 ~~Reports of medical examiners' inquiries performed as provided in this article and copies~~  
 4218 ~~of records, photographs, laboratory findings, and reports in the office of the director of the~~  
 4219 ~~division, when duly attested by said director, shall be received as evidence in any court or~~  
 4220 ~~other proceeding for any purpose for which the original could be received without any~~  
 4221 ~~proof of the official character of the person whose name is signed thereto Reserved."~~

### 4222 SECTION 85.

4223 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public  
 4224 transportation, is amended by revising Code Section 46-2-53, relating to reports, rate  
 4225 schedules, orders, rules, or regulations of commission as admissible evidence in court  
 4226 proceedings, as follows:

4227 "46-2-53.

4228 ~~The printed reports of the commission, published by its authority, shall be admissible as~~  
 4229 ~~evidence in any court in this state without further proof. The schedules of rates made by~~  
 4230 ~~the commission, and any order passed or rule or regulation prescribed by the commission,~~  
 4231 ~~shall be admissible in evidence in any court in this state upon the certificate of the secretary~~  
 4232 ~~of the commission Reserved.~~"

4233 **SECTION 86.**

4234 Said title is further amended by revising Code Section 46-3-175, relating to receipt of  
 4235 certificates and certified copies in evidence, as follows:

4236 "46-3-175.

4237 ~~(a) All certificates issued by the Secretary of State in accordance with this article and all~~  
 4238 ~~copies of documents filed in his office in accordance with this article, when certified by~~  
 4239 ~~him, shall be taken and received in all courts, public offices, and official bodies as~~  
 4240 ~~prima-facie evidence of the facts stated therein. A certificate by the Secretary of State~~  
 4241 ~~under the seal of his office as to the existence or nonexistence of facts relating to electric~~  
 4242 ~~membership corporations or foreign electric cooperatives shall be taken and received in all~~  
 4243 ~~courts, public offices, and official bodies as prima-facie evidence of the existence or~~  
 4244 ~~nonexistence of the facts stated therein.~~

4245 ~~(b) The Secretary of State, at any time, upon the request of any person, shall make and~~  
 4246 ~~certify additional copies of any document filed with his or her office and of the certificate,~~  
 4247 ~~if any, issued by the Secretary of State in connection with the filing of the document, under~~  
 4248 ~~this article, upon payment to ~~him~~ the Secretary of State of the fee provided for in Code~~  
 4249 ~~Section 46-3-502."~~

4250 **SECTION 87.**

4251 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
 4252 amended by revising Code Section 48-2-14, relating to the state revenue commissioner's  
 4253 official seal, as follows:

4254 "48-2-14.

4255 The commissioner shall have an official seal of such device as he or she shall select,  
 4256 subject to the approval of the Governor. ~~Any certificate or other legal document or paper~~  
 4257 ~~executed by the commissioner in the exercise of any authority conferred upon him by law,~~  
 4258 ~~which paper is sealed with the seal of his office, and all copies or photographic copies of~~  
 4259 ~~papers certified by him and authenticated by the seal shall be evidence equally in all cases~~  
 4260 ~~and, in like manner as the original of the document or paper, shall be primary evidence in~~  
 4261 ~~all cases of the contents of the original, and shall be admissible in any court in this state."~~

4262

**SECTION 88.**

4263 Said title is further amended by revising subsection (d) of Code Section 48-5-138, relating  
4264 to the cashbook to be kept by tax collectors and tax commissioners, as follows:

4265 "(d) The tax collector or tax commissioner shall make and file an accounting as required  
4266 by Code Section 48-5-154. The record book shall be preserved by the tax collector or tax  
4267 commissioner in the tax collector's or tax commissioner's office. ~~The record book or a~~  
4268 ~~transcript of the record book, when properly authenticated, shall be admitted in evidence~~  
4269 ~~in courts of this state as evidence of the payment of taxes.~~ The commissioner shall furnish  
4270 the tax collectors and tax commissioners the book required pursuant to this Code section  
4271 at the state's expense."

4272

**SECTION 89.**

4273 Code Section 49-5-183.1 of the Official Code of Georgia Annotated, relating to notice to  
4274 alleged child abuser of classification and procedure, is amended by revising subsection (i)  
4275 as follows:

4276 "(i) No child under the age of 14 shall be compelled to appear to testify at any hearing held  
4277 pursuant to this Code section. If a child under the age of 14 testifies voluntarily, such  
4278 testimony shall be given in compliance with procedures analogous to those contained in  
4279 Code Section 17-8-55. Nothing in this article shall prohibit introducing a child's statement  
4280 in a hearing held pursuant to this Code section if the statement meets the criteria of Code  
4281 Section ~~24-3-16~~ 24-8-820."

4282

**SECTION 90.**

4283 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
4284 by revising Code Section 50-5A-4, relating to bond to be recorded and filed and certified  
4285 copy is admissible in evidence, as follows:

4286 "50-5A-4.

4287 The bond of the director, when duly executed and approved, shall be recorded in the  
4288 Secretary of State's office and filed in the office of the Governor. ~~A copy of the bond,~~  
4289 ~~when certified by one of the Governor's secretaries under the seal of the office of the~~  
4290 ~~Governor, or a certified copy taken from the records of the Secretary of State's office shall~~  
4291 ~~be received in evidence in any court in lieu of the original."~~

4292

**SECTION 91.**

4293 Said title is further amended by revising Code Section 50-18-96, relating to copies of records  
4294 as primary evidence, as follows:

4295 "50-18-96.  
 4296 ~~Photostatic copies of records produced from microfilm and print-out copies of computer~~  
 4297 ~~records shall be received in any court of this state as primary evidence of the recitals~~  
 4298 ~~contained therein~~ Reserved."

4299 **SECTION 92.**

4300 Code Section 52-6-8 of the Official Code of Georgia Annotated, relating to keeping of  
 4301 records by the Board of Pilotage Commissioners, is amended as follows:

4302 "52-6-8.

4303 The commissioners shall preserve in a neatly bound book a record of all their acts and of  
 4304 all the rules and regulations adopted by them for the direction and government of pilots.  
 4305 The commissioners ~~They~~ shall designate one of their number as ~~chairman~~ chairperson and  
 4306 cause a record thereof to be made. The commissioners ~~They~~ shall also preserve upon their  
 4307 records a list of the names of all persons appointed pilots by them, as well as a list of the  
 4308 names of those whose licenses have been suspended or revoked or who have been retired.  
 4309 All persons interested shall have access to and be permitted to have ~~copies~~ duplicates of  
 4310 ~~the~~ such records; ~~and copies thereof certified by the chairman or secretary shall be~~  
 4311 ~~presumptive evidence of the facts therein stated.~~"

4312 **SECTION 93.**

4313 Title 53 of the Official Code of Georgia Annotated, relating to wills, trusts, and estates, is  
 4314 amended by revising subsection (b) of Code Section 53-5-33, relating to requisites for  
 4315 admission to ancillary probate, as follows:

4316 "(b) For purposes of ancillary probate of out-of-state wills, when the out-of-state will has  
 4317 been admitted to probate or established in the domiciliary jurisdiction, the will may be  
 4318 admitted to ancillary probate in solemn form upon production of a properly certified copy  
 4319 of the will and a properly authenticated copy of the final proceedings in the jurisdiction in  
 4320 which the will was probated or established, certified according to Code Section ~~24-7-24~~  
 4321 24-9-922, and may be attacked or resisted on the same grounds as other judicial  
 4322 proceedings from a state of the United States."

4323 **SECTION 94.**

4324 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section  
 4325 53-5-35, relating to muniments of title to realty, as follows:

4326 "(1) Such a will is accompanied by properly authenticated copies of the record admitting  
 4327 the will to probate in another state, certified according to Code Section ~~24-7-24~~ 24-9-922;  
 4328 and"

**SECTION 95.**

4329  
4330 Said title is further amended by revising Code Section 53-5-43, relating to evidence of  
4331 authority, as follows:

4332 "53-5-43.

4333 A copy of letters, or like documentation authenticated in accordance with Code Section  
4334 ~~24-7-24~~ 24-9-922, evidencing the qualification of the personal representative of the  
4335 decedent who died domiciled outside this state, shall constitute prima-facie evidence of the  
4336 authority of the personal representative to act in this state. Whenever a personal  
4337 representative shall execute and deliver any deed of assent or conveyance with respect to  
4338 real property located within this state, the personal representative shall attach to such deed  
4339 as an exhibit the authenticated copy of the letters, and a certified copy of the will in the  
4340 case of a testate decedent. The clerks of the superior courts of this state shall not be  
4341 authorized to accept for filing and recording any deed given by such personal  
4342 representative that does not conform to the foregoing requirements. Unless a third party  
4343 has actual knowledge of the existence or pendency of ancillary probate or administration  
4344 with respect to the decedent within this state, the third party who is dealing with the  
4345 personal representative in reliance on the personal representative's letters and, in the case  
4346 of a testate decedent, the out-of-state or foreign will, shall be fully protected."

**SECTION 96.**

4347  
4348 Said title is further amended by revising Code Section 53-11-11, relating to authentication  
4349 or exemplification of document, as follows:

4350 "53-11-11.

4351 Whenever it is required that a document to be filed in the probate court be authenticated  
4352 or exemplified, such requirement shall be met by complying with the provisions of Code  
4353 Section ~~24-7-24~~ 24-7-922 and such full faith and credit shall be given to the document as  
4354 is provided in that Code section."

**SECTION 97.**

4355  
4356 This Act shall become effective on January 1, 2011, and shall apply to any motion made or  
4357 hearing or trial commenced on or after such date; provided, however, that Section 70 of this  
4358 Act shall become effective only when Act Number 339 of the 2007 Regular Session of the  
4359 General Assembly (Ga. L. 2007, p. 626), approved May 29, 2007, becomes effective as  
4360 provided in Section 2 of such 2007 Act.

**SECTION 98.**

4361  
4362 All laws and parts of laws in conflict with this Act are repealed.