

House Bill 221 (COMMITTEE SUBSTITUTE)

By: Representatives Willard of the 49th, Ralston of the 7th, Lindsey of the 54th, and Oliver of the 83rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 9 of the Official Code of Georgia Annotated, relating to
2 extraordinary writs, so as to provide that no writ of mandamus or writ of prohibition to
3 compel the removal of a judge shall issue where no motion to recuse has been filed in a
4 timely manner or where a motion to recuse has been denied; to repeal conflicting laws; and
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 6 of Title 9 of the Official Code of Georgia Annotated, relating to extraordinary
9 writs, is amended by revising Code Section 9-6-20, relating to when mandamus may issue,
10 as follows:

11 "9-6-20.

12 All official duties should be faithfully performed; and whenever, from any cause, a defect
13 of legal justice would ensue from a failure to perform or from improper performance, the
14 writ of mandamus may issue to compel a due performance; if there is no other specific
15 legal remedy for the legal rights; provided, however, that no writ of mandamus to compel
16 the removal of a judge shall issue where no motion to recuse has been filed, if such motion
17 is available, or where a motion to recuse has been denied after assignment to a separate
18 judge for hearing."

19 **SECTION 2.**

20 Said chapter is further amended by revising Code Section 9-6-40, relating to prohibition
21 counterpart of mandamus, as follows:

22 "9-6-40.

23 The writ of prohibition is the counterpart of mandamus, to restrain subordinate courts and
24 inferior judicial tribunals from exceeding their jurisdiction; where no other legal remedy
25 or relief is given. The granting or refusal thereof is governed by the same principles of

26 right, necessity, and justice as apply to mandamus; provided, however, that no writ of
27 prohibition to compel the removal of a judge shall issue where no motion to recuse has
28 been filed, if such motion is available, or where a motion to recuse has been denied after
29 assignment to a separate judge for hearing."

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SECTION 3.

31 All laws and parts of laws in conflict with this Act are repealed.