

The Senate Judiciary Committee offered the following substitute to HB 514:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to
2 general provisions regarding the judicial system, so as to provide for provisions regarding
3 the assignment of senior judges; to provide for certain provisions regarding a senior judge's
4 status; to change certain provisions relating to certain courts requesting assistance of a senior
5 judge; to provide for conditions for such assistance; to amend Part 1 of Article 2 of Chapter
6 10 of Title 9 of the Official Code of Georgia Annotated, relating to venue, so as to provide
7 definitions; to provide a uniform venue provision in certain proceedings involving the
8 constitutionality of certain provisions of law; to provide for related matters; to provide an
9 effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 SECTION 1.

12 Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general
13 provisions regarding the judicial system, is amended by revising subsection (n) of Code
14 Section 15-1-9.1, relating to requesting judicial assistance from other courts, as follows:

15 "(n) Notwithstanding the provisions of this Code section, a senior judge shall not be
16 assigned, designated, or preside in any:

17 (1) ~~criminal~~ Criminal case involving a capital offense for which the death penalty may
18 be imposed once the state has filed a notice of its intention to seek the death penalty;
19 provided, however, that a senior judge may be assigned, designated, or preside in such
20 a case if the judge had previously been assigned or designated and presided over such
21 case while serving as an elected superior court judge prior to attaining senior judge status;

22 or

23 (2) Civil case involving a challenge to the constitutionality of any state statute or state
24 action, with the exception of habeas corpus actions; provided, however, that:

25 (A) A senior judge may be assigned, designated, or preside in such a case if such judge
 26 had previously been assigned or designated and presided over such case while serving
 27 as an elected superior court judge prior to attaining senior judge status; and

28 (B) If a challenge subject to this paragraph is raised by pleading later than 60 days after
 29 the filing of the complaint or within 45 days of the timely filing of the answer, an
 30 elected superior court judge of the circuit in which the case is pending shall determine
 31 whether, on the face of the challenge as raised and taking the facts as stated by the party
 32 asserting the challenge as true, the constitutional challenge is without merit. If when
 33 making a determination pursuant to this paragraph the elected superior court judge
 34 determines that the challenge has merit, the case shall be reassigned to an elected
 35 superior court judge; provided, however, that if when making such determination the
 36 elected superior court judge determines that the challenge is without merit, the case
 37 shall remain with the senior judge.

38 This paragraph shall not apply to any constitutional challenge raised after the entry of the
 39 pretrial order entered immediately prior to trial."

40 **SECTION 2.**

41 Said chapter is further amended by revising subsection (e) of Code Section 15-1-9.2, relating
 42 to senior judge status and requesting assistance from senior judges, as follows:

43 "(e) Notwithstanding the provisions of this Code section, a senior judge shall not be
 44 assigned, designated, or preside in any:

45 (1) Criminal ~~criminal~~ case involving a capital offense for which the death penalty may
 46 be imposed once the state has filed a notice of its intention to seek the death penalty;
 47 provided, however, that a senior judge may be assigned, designated, or preside in such
 48 a case if the judge had previously been assigned or designated and presided over such
 49 case while serving as an elected superior court judge prior to attaining senior judge status;

50 or

51 (2) Civil case involving a challenge to the constitutionality of any state statute or state
 52 action, with the exception of habeas corpus actions; provided, however, that:

53 (A) A senior judge may be assigned, designated, or preside in such a case if such judge
 54 had previously been assigned or designated and presided over such case while serving
 55 as an elected superior court judge prior to attaining senior judge status; and

56 (B) If a challenge subject to this paragraph is raised by pleading later than 60 days after
 57 the filing of the complaint or within 45 days of the timely filing of the answer, an
 58 elected superior court judge of the circuit in which the case is pending shall determine
 59 whether, on the face of the challenge as raised and taking the facts as stated by the party
 60 asserting the challenge as true, the constitutional challenge is without merit. If when

61 making a determination pursuant to this paragraph the elected superior court judge
 62 determines that the challenge has merit, the case shall be reassigned to an elected
 63 superior court judge; provided, however, that if when making such determination the
 64 elected superior court judge determines that the challenge is without merit, the case
 65 shall remain with the senior judge.

66 This paragraph shall not apply to any constitutional challenge raised after the entry of the
 67 pretrial order entered immediately prior to trial."

68 **SECTION 3.**

69 Said chapter is further amended by revising subsection (g) of Code Section 15-1-9.3, relating
 70 to senior judges of the state court, probate court, or juvenile court and requesting assistance
 71 of a senior judge, as follows:

72 "(g) Notwithstanding the provisions of this Code section, a senior judge shall not be
 73 assigned, designated, or preside in any:

74 (1) Criminal ~~criminal~~ case involving a capital offense for which the death penalty may
 75 be imposed once the state has filed a notice of its intention to seek the death penalty;
 76 provided, however, that a senior judge may be assigned, designated, or preside in such
 77 a case if the judge had previously been assigned or designated and presided over such
 78 case while serving as an elected superior court judge prior to attaining senior judge status;
 79 or

80 (2) Civil case involving a challenge to the constitutionality of any state statute or state
 81 action, with the exception of habeas corpus actions; provided, however, that:

82 (A) A senior judge may be assigned, designated, or preside in such a case if such judge
 83 had previously been assigned or designated and presided over such case while serving
 84 as an elected superior court judge prior to attaining senior judge status; and

85 (B) If a challenge subject to this paragraph is raised by pleading later than 60 days after
 86 the filing of the complaint or within 45 days of the timely filing of the answer, an
 87 elected superior court judge of the circuit in which the case is pending shall determine
 88 whether, on the face of the challenge as raised and taking the facts as stated by the party
 89 asserting the challenge as true, the constitutional challenge is without merit. If when
 90 making a determination pursuant to this paragraph the elected superior court judge
 91 determines that the challenge has merit, the case shall be reassigned to an elected
 92 superior court judge; provided, however, that if when making such determination the
 93 elected superior court judge determines that the challenge is without merit, the case
 94 shall remain with the senior judge.

95 This paragraph shall not apply to any constitutional challenge raised after the entry of the
 96 pretrial order entered immediately prior to trial."

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SECTION 4.

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Part 1 of Article 2 of Chapter 10 of Title 9 of the Official Code of Georgia Annotated,
relating to venue, is amended by adding a new Code section to read as follows:

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"9-10-35.

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(a) For the purposes of this Code section, 'public officer' means:

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(1) Every constitutional officer;

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(2) Every elected state official;

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(3) The executive head of every state department or agency, whether elected or
appointed;

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(4) Each member of the General Assembly; and

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(5) The executive director of each state board or commission and the members thereof.

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(b) For purposes of any civil action involving a challenge to the constitutionality of any
state statute, rule, regulation, or action, with the exception of habeas corpus actions,
against a public officer in his or her official capacity, the county of residence of the
defendant shall be the county in which is found the primary office of the governmental
entity of which the defendant is an officer."

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SECTION 5.

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This Act shall become effective upon its approval by the Governor or upon its becoming law
without such approval.

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SECTION 6.

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