

## COMMITTEE OF CONFERENCE 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 provide for related matters; to provide  
 6 an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

## SECTION 1.

8 Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general  
 9 provisions regarding the judicial system, is amended by revising subsection (n) of Code  
 10 Section 15-1-9.1, relating to requesting judicial assistance from other courts, as follows:  
 11

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

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

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

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

25 (B) If a challenge subject to this paragraph is raised by pleading later than 60 days after  
 26 the filing of the complaint or within 45 days of the timely filing of the answer, an

27 elected superior court judge of the circuit in which the case is pending shall determine  
 28 whether, on the face of the challenge as raised and taking the facts as stated by the party  
 29 asserting the challenge as true, the constitutional challenge is without merit. If when  
 30 making a determination pursuant to this paragraph the elected superior court judge  
 31 determines that the challenge has merit, the case shall be reassigned to an elected  
 32 superior court judge; provided, however, that if when making such determination the  
 33 elected superior court judge determines that the challenge is without merit, the case  
 34 shall remain with the senior judge.

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

## 37 SECTION 2.

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

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

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

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

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

53 (B) If a challenge subject to this paragraph is raised by pleading later than 60 days after  
 54 the filing of the complaint or within 45 days of the timely filing of the answer, an  
 55 elected superior court judge of the circuit in which the case is pending shall determine  
 56 whether, on the face of the challenge as raised and taking the facts as stated by the party  
 57 asserting the challenge as true, the constitutional challenge is without merit. If when  
 58 making a determination pursuant to this paragraph the elected superior court judge  
 59 determines that the challenge has merit, the case shall be reassigned to an elected  
 60 superior court judge; provided, however, that if when making such determination the  
 61 elected superior court judge determines that the challenge is without merit, the case  
 62 shall remain with the senior judge.

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

65 **SECTION 3.**

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

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

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

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

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

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

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

94 **SECTION 4.**

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

