

The House Committee on Judiciary Non-civil offers the following substitute to HB 392:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated,
2 relating to arraignment and pleas generally, so as to change provisions relating to withdrawal
3 of guilty pleas and acceptance of negotiated plea agreements; to provide for related matters;
4 to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 5 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to
8 arraignment and pleas generally, is amended by revising Code Section 17-7-93, relating to
9 reading of indictment or accusation, answer of accused, recording of guilty plea, and
10 pronouncement of sentence, as follows:

11 "17-7-93.

12 (a) Upon the arraignment of a person accused of committing a crime, the indictment or
13 accusation shall be read to ~~him~~ the accused and he or she shall be required to answer
14 whether he or she is guilty or not guilty of the offense charged, which answer or plea shall
15 be made orally by the accused ~~person~~ or his the accused's counsel.

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

23 (c) If the court intends to reject a negotiated plea agreement in part or in whole, the court
24 shall, prior to the court entering judgment:

25 (1) Inform the accused and the prosecutor that the:

26 (A) Court is not bound by the negotiated plea agreement;

27 (B) Court intends to reject or otherwise deviate from the negotiated plea agreement;
 28 (C) Disposition of the present case may be less favorable to the accused or to the state
 29 than that contemplated by the negotiated plea agreement; and
 30 (D) Accused may withdraw his or her guilty plea or the state may withdraw the offers
 31 made in the negotiated plea agreement as a matter of right; and
 32 (2) Allow an opportunity for the accused and the state to withdraw the offers made in the
 33 negotiated plea. If the negotiated plea agreement is not then withdrawn by either party,
 34 sentence may be pronounced. If either party withdraws from the negotiated plea
 35 agreement after being informed of the trial court's intention to reject the negotiated plea
 36 agreement in part or in whole, the case shall immediately be placed upon a trial calendar
 37 or rescheduled for such other action as the court deems proper. In the event that a party
 38 revokes or withdraws from the negotiated plea agreement pursuant to the provisions of
 39 this subsection, the former plea and any evidence discovered solely as a result of
 40 negotiated plea discussions related to the former plea shall not be admissible as evidence
 41 against the accused at trial.
 42 (d) In addition to any other inquiry by the court prior to acceptance of a plea of guilty, the
 43 court shall determine whether the ~~defendant~~ accused is freely entering the plea with an
 44 understanding that if he or she is not a citizen of the United States, then the plea may have
 45 an impact on his or her immigration status. This subsection shall apply with respect to
 46 acceptance of any plea of guilty to any state offense in any court of this state or any
 47 political subdivision of this state."

48 **SECTION 2.**

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