

House Bill 390 (AS PASSED HOUSE AND SENATE)

By: Representatives Coomer of the 14th, Golick of the 34th, Jacobs of the 80th, Pak of the 102nd, and Holcomb of the 82nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 5 of the Official Code of Georgia Annotated, relating to appeal
2 or certiorari by the state in criminal cases, so as to authorize the state to have the right of
3 direct appeal rather than seeking a certificate for immediate review when a defendant's
4 motion for new trial or extraordinary motion of new trial is granted; to provide for an
5 effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 7 of Title 5 of the Official Code of Georgia Annotated, relating to appeal or
9 certiorari by the state in criminal cases, is amended by revising Code Section 5-7-2, relating
10 to certification required for immediate review of nonfinal orders, decisions, or judgments,
11 as follows:

12 "5-7-2.

13 (a) Except as provided in subsection (b) of this Code section ~~Other than from an order,~~
14 ~~decision, or judgment sustaining a motion to suppress evidence illegally seized,~~ in any
15 appeal under this chapter where the order, decision, or judgment is not final, it shall be
16 necessary that the trial judge certify within ten days of entry thereof that the order,
17 decision, or judgment is of such importance to the case that an immediate review should
18 be had.

19 (b) A certificate of immediate review shall not be required from an:

20 (1) Order, decision, or judgment suppressing or excluding illegally seized evidence; or

21 (2) Order, decision, or judgment described in paragraph (7) of subsection (a) of Code
22 Section 5-7-1.

23 (c) For purposes of this Code section, the granting of a motion for new trial or an
24 extraordinary motion for new trial shall be considered a final order."

25 **SECTION 2.**

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

28 **SECTION 3.**

29 All laws and parts of laws in conflict with this Act are repealed.