

House Bill 668

By: Representative Fleming of the 121st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 8 of Title 17 of the Official Code of Georgia Annotated,
2 relating to the conduct and argument of counsel, so as to provide for matters relative to
3 opening statements; to provide for presentation of evidence at trial; to provide for related
4 matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 4 of Chapter 8 of Title 17 of the Official Code of Georgia Annotated, relating to the
8 conduct and argument of counsel, is amended by adding two new Code sections to read as
9 follows:

10 "17-8-70.1.

11 (a) Prior to the presentation of the evidence, the prosecuting attorney may provide an
12 opening statement. The accused shall be entitled, but shall not be required, to make an
13 opening statement immediately after that of the prosecution or at the close of the
14 prosecution's case-in-chief and prior to the presentation of evidence from the defense,
15 should there be any.

16 (b) In the event the prosecution does not make an opening statement, the accused shall be
17 entitled to make an opening statement either immediately prior to the presentation of the
18 prosecution's case-in-chief or prior to the presentation of evidence from the defense, should
19 there be any.

20 (c) During opening statement, both the prosecution and the defense shall be entitled to
21 describe what, in good faith, each believes that the evidence will show, which may include,
22 but shall not be limited to, the factual and legal issues that may arise during trial, references
23 to the law and legal principles, and what witnesses, evidence, and theories will be
24 presented; provided, however, that the prosecution may not comment on the accused's right
25 to remain silent nor argue that the accused has a burden to present evidence in the case.

26 17-8-70.2

27 During the trial, if either the prosecution or defense mischaracterize facts, evidence, or law,
28 the opposing party shall be entitled to rebut and contradict the mischaracterization with
29 evidence and argument to the contrary during the course of the trial."

30 **SECTION 2.**

31 All laws and parts of laws in conflict with this Act are repealed.