

House Bill 146 (AS PASSED HOUSE AND SENATE)

By: Representatives Weldon of the 3rd, Willard of the 51st, and Mabra of the 63rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure,
2 so as to revise provisions relating to arrest and search warrants; to revise provisions relating
3 to the issuance of arrest and search warrants by video conference; to provide for application
4 and notice to appear for a show cause hearing; to provide for a hearing; to provide for bonds;
5 to provide for costs; to provide for the issuance of a prehearing arrest warrant; to repeal
6 provisions relating to a bond against a spouse; to provide for a bond for good behavior; to
7 provide for remedy for violation of bond; to provide for related matters; to repeal conflicting
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
12 amended by revising subsection (a) of Code Section 17-4-47, relating to issuance of warrants
13 by video conference, as follows:

14 "(a) A judge of any court in this state authorized to issue arrest warrants pursuant to Code
15 Section 17-4-40 may, as an alternative to other laws relating to the issuance of arrest
16 warrants, conduct such applications for the issuance of arrest warrants by video conference.
17 The issuance of an arrest warrant by video conference shall be valid irrespective of the
18 physical location of the judge at the time of the video conference, provided that the judge
19 issuing the warrant is authorized by law to issue such warrant, and, at the time such warrant
20 is issued, he or she is physically located within this state."

21 style="text-align:center">**SECTION 2.**

22 Said title is further amended by revising subsection (a) of Code Section 17-5-21.1, relating
23 to issuance of search warrants by video conference, as follows:

24 "(a) A judge of any court in this state authorized to issue search warrants pursuant to Code
25 Section 17-5-21 may, as an alternative to other laws relating to the issuance of search

26 warrants, conduct such applications for the issuance of search warrants by video
 27 conference. The issuance of a search warrant by video conference shall be valid
 28 irrespective of the physical location of the judge at the time of the video conference,
 29 provided that the judge issuing the warrant is authorized by law to issue such warrant, and,
 30 at the time such warrant is issued, he or she is physically located within this state."

31 **SECTION 3.**

32 Said title is further amended by revising Part 1 of Article 4 of Chapter 6, relating to bonds
 33 for good behavior, as follows:

34 "Part 1

35 17-6-90.

36 (a) Any judicial officer authorized to hold a court of inquiry may, upon the ~~information~~
 37 application of others under oath or upon his or her own motion, issue a ~~warrant against~~
 38 notice to appear for a show cause hearing to any person ~~in the county~~ whose conduct is
 39 ~~such as in the county is sufficient~~ to justify the belief that the safety of any one or more
 40 persons in the county or the peace or property of the same is in danger of being injured or
 41 disturbed thereby. ~~Upon the return of the warrant and upon~~ Such show cause hearing shall
 42 be held within seven days of such application or motion. ~~Upon~~ sufficient cause being
 43 shown, the court may require from the person a bond with sureties for such person's good
 44 behavior ~~until the next term of the superior court of the county or~~ with reasonable
 45 conditions to ensure the safety of persons or property in the county or the preservation of
 46 the peace of the county for a period of up to six months, ~~whichever is greater.~~ Any person
 47 ~~against whom a warrant issues must, within 24 hours, be brought for a hearing before the~~
 48 ~~court which issued the warrant or be released on bond by the sheriff, the amount and~~
 49 ~~reasonable conditions of such bond to be set by the court which issued the warrant.~~

50 (b) All bonds posted under this Code section shall be returnable in the court which issued
 51 ~~the warrant~~ required the bond and shall be amendable in the court's discretion. ~~Within~~
 52 ~~seven days after being released on bond by the sheriff, the person shall be entitled to a~~
 53 ~~hearing before the court which issued the warrant. The court may, on its own motion,~~
 54 ~~require a hearing.~~

55 (c) If it is determined at a hearing that there was not sufficient cause for ~~the warrant to~~
 56 ~~have been issued~~ a hearing to have been held, the affiant who caused the ~~warrant bond~~ to
 57 be issued imposed shall pay all court costs.

58 (d) At the time of or at any time after the filing of an application as provided in
 59 subsection (a) of this Code section, the judicial officer may, in his or her sound discretion,

60 issue an order of arrest for the person or persons named in the application if the sworn
 61 allegations regarding the conduct of such person or persons is sufficient to justify the belief
 62 that there is imminent danger of injury to any person in the county, damage to any property
 63 in the county, or disturbance of the peace of the county. Upon the arrest of such person,
 64 a hearing as provided in subsection (a) of this Code section shall be held within 24 hours;
 65 otherwise, such person shall be released on bond with sureties and reasonable conditions
 66 for his or her good behavior until a hearing can be held.
 67 (e) As used in this Code section, the term 'county' means the county in which the judicial
 68 officer is authorized to hold a court of inquiry.

69 ~~17-6-91.~~

70 ~~A person may require a bond for good behavior against the spouse of such person.~~

71 ~~17-6-92.~~

72 ~~For a violation of a bond posted pursuant to Code Section 17-6-90, an action may be~~
 73 ~~brought at the instance of any person in the county. The recovery on the bond shall be paid~~
 74 ~~to the person bringing the action.~~

75 ~~17-6-93~~ 17-6-91.

76 A bond for good behavior posted pursuant to Code Section 17-6-90 may be extended ~~from~~
 77 ~~term to term by the superior or state court, as the case may be, or for additional 60 day~~
 78 ~~periods~~ for a period of six months by the court which issued the warrant, ~~whichever is~~
 79 ~~greater, in its discretion~~ required the bond. The sureties on the bond shall have the
 80 privilege of surrendering their principal as in other cases of bail.

81 ~~17-6-94~~ 17-6-92.

82 Upon oral or written complaint by the injured party or upon motion by the prosecuting
 83 attorney, the court may, in its discretion, issue a rule for contempt against a party who
 84 violates the bond posted pursuant to Code Section 17-6-90. Upon hearing the rule, if the
 85 court finds that there has been a violation of the bond, the court may, ~~in addition to the~~
 86 ~~remedy provided in Code Section 17-6-92,~~ impose a sentence for contempt of court. If it
 87 should appear to the court from the evidence and the court finds that the violation of the
 88 bond was provoked or brought about by the conduct of the prosecuting witness, the
 89 witness, after notice and the opportunity for a hearing, may be ruled for contempt of court
 90 and sentenced as provided by law."

91

SECTION 4.

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