

Senate Bill 98

By: Senators Kennedy of the 18th, Bethel of the 54th, Jones of the 25th, Williams of the 27th, Harbin of the 16th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 10 of Title 9 of the Official Code of Georgia Annotated,  
2 relating to general provisions for civil practice and procedure generally, so as to change  
3 provisions relating to reversal on appeal when a judge expresses an opinion regarding proof  
4 in a civil case; to provide for related matters; to repeal conflicting laws; and for other  
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 10 of Title 9 of the Official Code of Georgia Annotated, relating to  
9 general provisions for civil practice and procedure generally, is amended by revising Code  
10 Section 9-10-7, relating to expression by judge of opinion in case is reversible error, as  
11 follows:

12 "9-10-7.

13 (a) It is error for any judge, during the progress of any phase of any civil case, or in his  
14 charge to the jury, to express or intimate his to the jury the judge's opinion as to what  
15 whether a fact at issue has or has not been proved. Should any judge violate this Code  
16 section, the violation shall be held by the Supreme Court or Court of Appeals to be error,  
17 the decision in the case shall be reversed, and a new trial shall be granted in the court below  
18 with such directions as the Supreme Court or the Court of Appeals may lawfully give.

19 (b) Any party who alleges a violation of subsection (a) of this Code section shall make a  
20 contemporaneous objection, outside of the jury's hearing and presence, and inform the  
21 court of the specific objection and the grounds for such objection.

22 (c) If the court finds that subsection (a) of this Code section has been violated, it shall be  
23 the duty of the court to give a curative instruction to the jury.

24 (d) Failure to make a contemporaneous objection to an alleged violation of subsection (a)  
25 of this Code section shall preclude appellate review, unless such violation constitutes plain  
26 error which affects substantial rights of the parties. Such plain error may be considered on

27 appeal even if it was not brought to the court's attention as provided in subsection (b) of  
28 this Code section."

29 **SECTION 2.**

30 All laws and parts of laws in conflict with this Act are repealed.