

Senate Bill 99

By: Senators Kennedy of the 18th, McKoon of the 29th, Jones of the 25th, Bethel of the 54th, Hill of the 32nd and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 8 of Title 17 of the Official Code of Georgia Annotated,
2 relating to conduct of proceedings, so as to change provisions relating to reversal on appeal
3 when a judge expresses an opinion regarding proof in a criminal case or as to the accused's
4 guilt; to provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Article 3 of Chapter 8 of Title 17 of the Official Code of Georgia Annotated, relating to
8 conduct of proceedings, is amended by revising Code Section 17-8-57, relating to expression
9 or intimation of opinion by judge as to matters proved or guilt of accused, as follows:

10 "17-8-57.

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

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

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

23 (d) Failure to make a contemporaneous objection to an alleged violation of subsection (a)
24 of this Code section shall preclude appellate review, unless such violation constitutes plain
25 error which affects substantial rights of the parties. Such plain error may be considered on
26 appeal even if it was not brought to the court's attention as provided in subsection (b) of
27 this Code section."

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SECTION 2.

29 All laws and parts of laws in conflict with this Act are repealed.