

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

**AS PASSED SENATE**

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 **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 express an opinion as to the guilt of the accused, violate this Code  
15 section, the violation shall be held by the Supreme Court or, Court of Appeals, or trial court  
16 shall grant a new trial to be error and the decision in the case reversed, and a new trial  
17 granted in the court below with such directions as the Supreme Court or Court of Appeals  
18 may lawfully give.

19 (b) Any party who alleges a violation of subsection (a) of this Code section shall make a  
20 contemporaneous objection and inform the court of the specific objection and the grounds  
21 for such objection, outside of the jury's hearing and presence. After such objection has  
22 been made, it shall be the duty of the court to give a curative instruction to the jury or  
23 declare a mistrial, if appropriate.

24 (c) 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.