

Senate Bill 204

By: Senators Kennedy of the 18th, Tillery of the 19th, Mullis of the 53rd, Jeffares of the 17th and Jones of the 25th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 5-6-43 of the Official Code of Georgia Annotated, relating to
2 preparation and transmittal of record on appeal by court clerk, retention of copy by clerk,
3 furnishing at no cost to Attorney General in capital cases, and notification where defendant
4 confined to jail, so as to provide for expeditious preparation and transmittal of record and
5 transcript on appeal by court clerks; to add processes for when the clerk is unable to transmit
6 the record and transcript within the time otherwise required by law; to provide for a penalty;
7 to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Code Section 5-6-43 of the Official Code of Georgia Annotated, relating to preparation and
11 transmittal of record on appeal by court clerk, retention of copy by clerk, furnishing at no
12 cost to Attorney General in capital cases, and notification where defendant confined to jail,
13 is amended by revising subsection (a) as follows:

14 "(a)(1) Within five 30 days after the date of filing of the ~~transcript of evidence and~~
15 ~~proceedings by the appellant or appellee, as the case may be~~ notice of appeal, it shall be
16 the duty of the clerk of the trial court to prepare a complete copy of the entire record of
17 the case, omitting only those things designated for omission by the appellant and which
18 were not designated for inclusion by the appellee, together with a copy of the notice of
19 appeal and copy of any notice of cross appeal, with date of filing thereon, and transmit
20 the same, together with the transcript of evidence and proceedings, to the appellate court,
21 together with his or her certificate as to the correctness of the record. Where no transcript
22 of evidence and proceedings is to be sent up, the clerk shall prepare and transmit the
23 record within 20 days after the date of filing of the notice of appeal.

24 (2) Except for extensions of time obtained under Code Section 5-6-39, the clerk shall
25 notify the judge, appellant, and appellee in writing within three days if for good cause the
26 clerk is unable to transmit such record and transcript within the time required in

paragraph (1) of this subsection. Within 30 days of such written notification the judge, upon scheduling and holding a hearing with the appellant, appellee, and clerk, shall issue an order establishing a schedule for the transmittal of such record and transcript; provided, however, that such schedule shall provide for the most expeditious transmittal of such record and transcript as possible based upon the facts and circumstances provided to the judge at the hearing but in no event shall such time in such schedule exceed 90 days after the filing of the notice of appeal. Failure to meet the deadline as provided for in such order or to comply with such order or the provisions of this paragraph, without good cause shown, shall be cause for punishment as for contempt of court and fines to be issued for which such clerk shall be personally responsible to pay and for which the payment of such fines shall not be from such clerk's campaign, state, or office funds.

(3) If for any reason the clerk is unable to transmit the record and transcript within the time required in paragraph (1) of this subsection or when an extension of time was obtained under Code Section 5-6-39, he or she shall state in his or her certificate the cause of the delay, including, but not limited to, the terms of a scheduling order as provided for under paragraph (2) of this subsection or an extension of time that was obtained under Code Section 5-6-39, and the appeal shall not be dismissed.

(4) The clerk need not recopy the transcript of evidence and proceedings to be sent up on appeal but shall send up the reporter's original and retain the copy, as referred to in Code Section 5-6-41; and it shall not be necessary that the transcript be renumbered as a part of the record on appeal. The clerk shall retain an exact duplicate copy of all records and the transcript sent up, with the same pagination, in his or her office as a permanent record."

SECTION 2.

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