

The House Committee on Judiciary Non-Civil offers the following substitute to SB 222:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 15, 17, and 35 of the Official Code of Georgia Annotated, courts, criminal  
2 procedure, and law enforcement, so as to provide for a uniform misdemeanor citation; to  
3 amend Article 6 of Chapter 13 of Title 24 of the Official Code of Georgia Annotated, relating  
4 to depositions to preserve testimony in criminal proceedings, so as to revise the manner by  
5 which depositions are paid when taken at the instance of the state; to clarify how depositions  
6 shall be taken and filed; to provide for related matters; to repeal conflicting laws; and for  
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by  
11 repealing Code Section 15-5-21.1, relating to development and utilization of uniform  
12 misdemeanor citation and complaint form, in its entirety.

13 **SECTION 2.**

14 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
15 amended by revising paragraphs (1) and (2) of subsection (a) of Code Section 17-4-23,  
16 relating to procedure for arrests by citation for motor vehicle violations, issuance of warrants  
17 for arrest for failure of persons charged to appear in court, and bond, as follows:

18 "(a)(1) A law enforcement officer may arrest a person accused of violating any law or  
19 ordinance enacted by local law governing the operation, licensing, registration,  
20 maintenance, or inspection of motor vehicles or violating paragraph (2), (3), or (5) of  
21 subsection (a) of Code Section 3-3-23 by the issuance of a citation, as provided by Code  
22 Section 35-3-15 or 40-13-1, provided that such offense is committed in his or her  
23 presence or information constituting a basis for such arrest was received by the arresting  
24 officer from a law enforcement officer observing such offense being committed, except

25 that, when such offense results in an accident, an investigating officer may issue citations  
 26 regardless of whether the offense occurred in the presence of a law enforcement officer.  
 27 (2) A law enforcement officer may arrest a person accused of any misdemeanor violation  
 28 of Code Section 16-7-21, 16-8-14, 16-8-14.1, or 16-13-30 by the issuance of a citation,  
 29 as provided by Code Section 35-3-15 or 40-13-1, provided that such offense is committed  
 30 in his or her presence or information constituting a basis for such arrest was received by  
 31 the arresting officer or an investigating officer from another law enforcement officer or  
 32 other individual observing or aware of such offense being committed. When an arrest is  
 33 made for such offense, prior to releasing the accused on citation, the arresting law  
 34 enforcement officer shall review the accused's criminal record as such is on file with the  
 35 Federal Bureau of Investigation and the Georgia Crime Information Center within the  
 36 Georgia Bureau of Investigation and verify the identity of the accused through ~~ensure that~~  
 37 the accused's fingerprints are obtained or a valid government issued identification card  
 38 or driver's license. If the identity cannot be verified in such manner, the accused shall not  
 39 be released on citation.  
 40 (2.1) The law enforcement agency that employs the law enforcement officer who issues  
 41 a citation under this subsection shall obtain or cause to be obtained fingerprints of the  
 42 accused, as provided under Code Section 35-3-36."

43 **SECTION 3.**

44 Article 6 of Chapter 13 of Title 24 of the Official Code of Georgia Annotated, relating to  
 45 depositions to preserve testimony in criminal proceedings, is amended by revising Code  
 46 Section 24-13-132, relating to appointment of counsel and payment of costs and expenses,  
 47 as follows:

48 "24-13-132.

49 (a) If an accused is financially unable to employ counsel, the court shall appoint counsel  
 50 as provided in Chapter 12 of Title 17, unless the accused elects to proceed without counsel.

51 (b) Whenever a deposition is taken at the instance of the state, the cost of any such  
 52 deposition shall be paid by the state ~~by the Prosecuting Attorneys' Council of the State of~~  
 53 ~~Georgia out of such funds as may be appropriated for the operations of the district attorneys~~  
 54 in the same manner as any other motion hearing that may appear on the criminal calendar.

55 (c) Depositions taken at the instance of an accused shall be paid for by the accused;  
 56 provided, however, that, whenever a deposition is taken at the instance of an accused who  
 57 is eligible for the appointment of counsel as provided in Chapter 12 of Title 17, the court  
 58 shall direct that the reasonable expenses for the taking of the deposition and of travel and  
 59 subsistence of the accused and the accused's attorney for attendance at the examination, not

60 to exceed the limits established pursuant to Article 2 of Chapter 7 of Title 45, be paid for  
61 out of the fine and bond forfeiture fund of the county where venue is laid."

62 **SECTION 4.**

63 Said article is further amended by revising Code Section 24-13-133, relating to manner of  
64 taking and filing deposition, as follows:

65 "24-13-133.

66 Except as provided in Code Section 24-13-137, a deposition shall be taken and filed in the  
67 manner provided in civil proceedings or any nonjury motion hearing, provided that (1) in  
68 no event shall a deposition be taken of an accused party without his or her consent and (2)  
69 the scope of examination and cross-examination shall be such as would be allowed in the  
70 trial itself. On request or waiver by the accused, the court may direct that a deposition be  
71 taken on written interrogatories in the manner provided in civil proceedings. Such request  
72 shall constitute a waiver by the accused of any objection to the taking and use of the  
73 deposition based upon its being so taken. If a judge has been designated to rule on  
74 objections or to preside over the deposition, objections to interrogation of the witness shall  
75 be made to and ruled on by such judge in the same manner as at the trial of a criminal  
76 proceeding."

77 **SECTION 5.**

78 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement, is amended  
79 in Article 1 of Chapter 3, relating to general provisions regarding the Georgia Bureau of  
80 Investigation, by adding a new Code section to read as follows:

81 "35-3-15.

82 The Georgia Bureau of Investigation shall develop a uniform misdemeanor citation and  
83 complaint form for use by all law enforcement officials who are empowered to arrest  
84 individuals for misdemeanors and local ordinance violations. Such form shall serve as the  
85 citation, summons, accusation, or other instrument of prosecution of the offense or offenses  
86 for which the accused is charged and as the record of the disposition of the matter by the  
87 court before which the accused is brought and contain other matter as the council provides.  
88 Each such form shall have a unique identifying number which shall serve as the docket  
89 number for the court having jurisdiction of the accused. The Board of Public Safety shall  
90 promulgate rules and regulations for each class of court for the use of such citations."

91 **SECTION 6.**

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