

The House Committee on Judiciary offers the following substitute to SB 163:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 3 of Chapter 3 of Title 38 of the Official Code of Georgia
2 Annotated, relating to judicial emergency, so as to provide for the suspension of statutory
3 speedy trial requirements when compliance with such statutory speedy trial requirements
4 becomes impracticable following a judicial emergency; to provide for applicable
5 circumstances; to provide for requirements; to provide for notice; to provide for intervention
6 by the Chief Justice of the Supreme Court; to provide for a sunset date; to provide for related
7 matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 2 of Article 3 of Chapter 3 of Title 38 of the Official Code of Georgia Annotated,
11 relating to judicial emergency, is amended by revising subsection (b) of Code Section
12 38-3-61, relating to declaration of judicial emergency, duration of judicial emergency
13 declaration, and designation of alternative facility in lieu of court, as follows:

14 "(b) Except as provided in subsection (b) of Code Section 38-3-62, an ~~An~~ order declaring
15 the existence of a judicial emergency shall be limited to an initial duration of not more
16 than 30 days; provided, however, that the order may be modified or extended for no more

17 than two periods not exceeding 30 days each unless a public health emergency exists as set
18 forth in Code Section 38-3-51, in which case the Chief Justice of the Supreme Court of
19 Georgia may extend the emergency order for so long as such emergency exists, as declared
20 by the Governor. Any modification or extension of the initial order shall require
21 information regarding the same matters set forth in subsection (a) of this Code section for
22 the issuance of the initial order."

23

SECTION 2.

24 Said part is further amended by revising Code Section 38-3-62, relating to suspension or
25 tolling of deadlines and time schedules in event of judicial emergency, as follows:

26 38-3-62.

27 (a) An authorized judicial official in an order declaring a judicial emergency, or in an order
28 modifying or extending a judicial emergency order, is authorized to suspend, toll, extend,
29 or otherwise grant relief from deadlines or other time schedules or filing requirements
30 imposed by otherwise applicable statutes, rules, regulations, or court orders, whether in
31 civil or criminal cases or administrative matters, including, but not limited to:

32 (1) A statute of limitation;

33 (2) The time within which to issue a warrant;

34 (3) The time within which to try a case for which a demand for speedy trial has been
35 filed;

36 (4) The time within which to hold a commitment hearing;

37 (5) A deadline or other schedule regarding the detention of a juvenile;

38 (6) The time within which to return a bill of indictment or an accusation or to bring a
39 matter before a grand jury;

40 (7) The time within which to file a writ of habeas corpus;

41 (8) The time within which discovery or any aspect thereof is to be completed;

42 (9) The time within which to serve a party;

43 (10) The time within which to appeal or to seek the right to appeal any order, ruling, or
44 other determination; and

45 (11) Such other legal proceedings as determined to be necessary by the authorized
46 judicial official.

47 (b)(1) As used in this subsection, the term 'statutory speedy trial requirements' means all
48 speedy trial deadlines, time schedules, or filing requirements imposed by Code Section
49 17-7-170 or 17-7-171.

50 (2)(A) A chief judge of a Georgia superior court judicial circuit or a chief judge of a
51 Georgia state court may suspend, toll, extend, modify, or otherwise grant relief from
52 statutory speedy trial requirements following a judicial emergency if compliance with
53 such requirements is impracticable, subject to the requirements under subparagraph (B)
54 of this paragraph.

55 (B) Relief under this subsection shall be authorized if a chief judge certifies that under
56 the totality of the circumstances arising from the preceding judicial emergency,
57 compliance with statutory speedy trial requirements is impracticable in the applicable
58 county or court following a judicial emergency due to the following factors:

59 (i) A pending criminal case volume that is substantially above the average pending
60 criminal case volume at the end of each of the three full calendar years preceding the
61 judicial emergency;

62 (ii) An annualized criminal case clearance rate in the current calendar year that is
63 substantially below the average criminal case clearance rate for each of the three full
64 calendar years preceding the judicial emergency;

65 (iii) The number of speedy trial demands pending within one month of the date of
66 certification;

67 (iv) The number of jury trials held during the last full term of court;

68 (v) Ongoing space limitations or other health or safety concerns regarding the use of
69 the facilities available to conduct criminal trials and related activities;

70 (vi) The limited availability of judges, courtroom personnel, prosecutors, public
71 defenders, expert witnesses, forensic analysis, law enforcement officers, or other
72 relevant persons;

73 (vii) The extent of efforts made by prosecuting attorneys and the court to reduce the
74 number of criminal defendants held in custody awaiting trial; and

75 (viii) Other relevant facts that justify ongoing relief from statutory speedy trial
76 requirements, if any.

77 (3) An order granting relief under this subsection shall be accompanied by a certification
78 that compliance with statutory speedy trial requirements is impracticable in the applicable
79 county or court. Each time a chief judge issues an order granting relief under this
80 subsection, he or she shall:

81 (A) Certify that compliance with statutory speedy trial requirements is impracticable
82 in the applicable county or court; or

83 (B) Attach such certification provided by either:

84 (i) A majority of the superior court judges in his or her judicial circuit pursuant to
85 paragraph (6) of this subsection; or

86 (ii) A majority of the state court judges in his or her county pursuant to paragraph (8)
87 of this subsection.

88 (4) Each certification issued pursuant to paragraph (3) of this subsection shall include the
89 following:

90 (A) Supporting statistical data and findings of fact to justify relief under paragraph (2)
91 of this subsection; and

92 (B) A plan to resolve cases in which a statutory speedy trial demand has been filed as
93 expeditiously as possible. The plan shall establish an order of priority in which such
94 cases will be called for trial, giving highest priority to such cases of defendants who
95 have been held in custody for the longest time as a result of the charges in the case.

- 96 The plan shall also state the number of trial weeks scheduled for each judge in the
97 applicable county or court during the period of relief granted under this subsection.
- 98 (5) A chief judge of a superior court judicial circuit acting under this subsection:
99 (A) May act independently of any emergency declared by the Governor;
100 (B) May grant relief from statutory speedy trial requirements in a superior court for a
101 county in his or her judicial circuit;
102 (C) May act in his or her own discretion; and
103 (D) Shall act upon the request of a majority of the active superior court judges in his
104 or her judicial circuit pursuant to paragraph (6) of this subsection.
- 105 (6) A chief judge of a superior court judicial circuit shall grant relief from speedy trial
106 requirements in a superior court for a county in his or her judicial circuit if such action
107 is requested by a majority of the active superior court judges in his or her judicial circuit.
108 Any such request shall be in writing and be accompanied by the certification required in
109 paragraph (3) of this subsection.
- 110 (7) A chief judge of a state court acting under this subsection:
111 (A) May act independently of any emergency declared by the Governor;
112 (B) May grant relief from statutory speedy trial requirements in his or her state court;
113 (C) May act in his or her own discretion; and
114 (D) Shall act upon the request of a majority of the active state court judges in his or her
115 county pursuant to paragraph (8) of this subsection.
- 116 (8) A chief judge of a state court shall grant relief from speedy trial requirements in his
117 or her state court if such action is requested by a majority of the active state court judges
118 in his or her county. Any such request shall be in writing and be accompanied by the
119 certification required in paragraph (3) of this subsection.
- 120 (9) Each period of relief granted under this subsection:
121 (A) Shall not exceed a total of eight months; and
122 (B) Shall end on the last day of a term of court.

123 (10) Each time a chief judge issues an order granting relief under this subsection, he or
124 she shall provide notice of such action to judicial officials and the public in the same
125 manner provided in Code Section 38-3-63, except that such notice shall also include the
126 certification required under paragraph (3) of this subsection.

127 (11) The Chief Justice of the Georgia Supreme Court may, by order and in his or her sole
128 discretion, reinstate any statutory speedy trial requirement subject to an order granting
129 relief under this subsection. The Chief Justice shall provide notice of such action to
130 judicial officials and the public in the same manner provided in Code Section 38-3-63.
131 If the Chief Justice takes such action, a chief judge shall not grant subsequent relief from
132 statutory speedy trial requirements in the applicable county or court following the same
133 judicial emergency unless subsequent relief is reauthorized by the Chief Justice.

134 (12) Nothing in this subsection shall relieve the state of its constitutional obligation to
135 provide for a speedy and public criminal trial.

136 (13) This subsection shall be in effect until June 30, 2023, and no order granting relief
137 under this subsection shall be issued after such date."

138 **SECTION 3.**

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